

FULTON COUNTY BOARD OF ZONING APPEALS
JANUARY 14, 2004

FULTON COUNTY BOARD OF ZONING APPEALS

WEDNESDAY, JANUARY 14, 2004

7:00 P.M.

COMMISSIONERS/COUNCIL ROOM

CALL TO ORDER

BOARD OF ZONING APPEALS MINUTES FOR:

December 10, 2004

OLD BUSINESS

NEW BUSINESS:

59-0403 Lyle Smith

74-1203 Andy & Ada Yoder

PLAN DIRECTOR REPORT

PUBLIC COMMENTS

BOARD COMMENTS

ADJOURNMENT

FULTON COUNTY BOARD OF ZONING APPEALS
JANUARY 14, 2004

The Fulton County Board of Zoning Appeals met on Wednesday the 14th day of January 2004, at 7:00 P.M., in the Commissioners/Council Room located in the Fulton County Office Building. Dan Walsh called the meeting to order at 7:00 P.M. The following members were present: Dan Walsh; Linda Herd; Steve Furnivall and Debbie Barts. Also in attendance were: Plan Director, Casi Cramer; Administrative Secretary, Erica Tyler; and Greg Heller. It is duly noted that the following were absent: Mark Martens.

IN RE: ELECTION OF OFFICERS

Dan Walsh explained the first item of business would be the election of the new officers. The Board must vote for new officials on a yearly basis. Dan opened the floor for nominations for Chairperson. Steve Furnivall nominated Mark Martens as Chairperson. Debbie Barts seconded the nomination. Steve Furnivall moved to close nominations for Chairperson. Debbie Barts seconded the motion. Motion carried as follows: Steve Furnivall, Debbie Barts, Linda Herd, and Dan Walsh being in favor and no one opposing. Mark Martens was elected as Chairperson.

Dan opened the floor for nominations for Vice Chairperson. Debbie Barts nominated Dan Walsh as Vice Chairperson. Linda Herd seconded the nomination. Steve Furnivall moved to close the nominations of Vice Chairperson. Debbie Barts seconded the motion. Motion carried as follows: Steve Furnivall, Debbie Barts, Linda Herd, and Dan Walsh being in favor and no one opposing. Dan Walsh was elected as Vice Chairperson.

Vice Chairperson, Dan Walsh, opened the floor for nominations of Executive Secretary. Debbie Barts nominated Linda Herd for Executive Secretary. Steve Furnivall seconded the nomination. Steve Furnivall moved to close nominations for Executive Secretary. Debbie Barts seconded the motion. Motion carried as follows: Steve Furnivall, Debbie Barts, Linda Herd, and Dan Walsh being in favor and no one opposing.

Dan opened the floor for the appointment of Administrative Secretary. Steve Furnivall moved to appoint Erica Tyler as the Board of Zoning Appeals Administrative Secretary. Debbie Barts seconded the motion. Steve Furnivall moved to close the appointment for Administrative Secretary. Linda Herd seconded the motion. Motion carried as follows: Steve Furnivall, Linda Herd, Debbie Barts, and Dan Walsh being in favor and no one opposing.

Dan Walsh opened the floor for the appointment of the Board Attorney. Steve Furnivall moved to appoint Burke & Heller as the Board of Zoning Appeals legal council. Linda Herd seconded the motion. Motion carried as follows: Steve Furnivall, Linda Herd, Debbie Barts, and Dan Walsh being in favor and no one opposing.

IN RE: RESOLUTION 01142004 MEETING DATES & TIMES

Vice Chairperson, Dan Walsh, read Resolution 01142004 regarding the meeting dates and times for the Board of Zoning Appeals in 2004. Dan entertained a motion to adopt Resolution 01142004. Steve Furnivall moved to adopt Resolution 01142004 for the Board of Zoning Appeals meeting

FULTON COUNTY BOARD OF ZONING APPEALS
JANUARY 14, 2004

dates and times in 2004. Debbie Barts seconded the motion. Motion carried as follows: Steve Furnivall, Debbie Barts, Linda Herd, and Dan Walsh being in favor and no one opposing. Resolution 01142004 reads as follows:

RESOLUTION 01142004

A RESOLUTION OF THE FULTON COUNTY BOARD OF ZONING APPEALS, OF THE COUNTY OF FULTON, INDIANA, ESTABLISHING MEETING TIMES FOR 2004.

WHEREAS, the Fulton County Board of Zoning Appeals has established that they will meet on the second (2nd) Wednesday each month at 7:00 P.M. in the Commissioners/Council Room at the Fulton County Office Building unless that Wednesday falls on a County observed Holiday, then the meeting will be held on the second (2nd) Thursday at 7:00 P.M. in the Commissioners/Council Room at the Fulton County Office Building.

WHEREAS, the Fulton County Board of Zoning Appeals have established meeting times as set out under Indiana Code 36-2-2-6 et. seq.;

NOW THEREFORE, Be It Resolved by the Fulton County Zoning Board of Appeals that:

1. The Fulton County Board of Zoning Appeals will meet on the second (2nd) Wednesday every month at 7:00 P.M. in the Commissioners/Council Room at the Fulton County Office Building unless that Wednesday falls on a County observed Holiday, then the meeting will be held on the second (2nd) Thursday at 7:00 P.M. in the Commissioners/Council Room at the Fulton County Office Building.
2. Other meetings will be scheduled and a public notice will be given.

Adopted this 14th day of January 2004.

Fulton County Board of Zoning Appeals

Mark Martens
Dan Walsh
Linda Herd

Attest: Erica A. Tyler
Administrative Secretary

IN RE: MINUTES

DECEMBER 10, 2003

Dan Walsh asked for any additions, deletions, or corrections to be made to the December 10, 2003 Board of Zoning Appeals minutes. Being none, Debbie Barts moved to approve the December 10, 2003 Board of Zoning Appeals minutes. Linda Herd seconded the motion. Motion carried as

FULTON COUNTY BOARD OF ZONING APPEALS
JANUARY 14, 2004

follows: Debbie Barts, Linda Herd, Steve Furnivall, and Dan Walsh being in favor and no one opposing.

It is duly noted that there was no Old Business reported at this time.

IN RE: NEW BUSINESS

LYLE SMITH
USE VARIANCE

Lyle Smith, Docket #BZA 59-0403, Use Variance. Mr. Smith is requesting a use variance for the purpose of placing a singlewide mobile home within a Residential Cluster District (R1). The property is located at 9936 River Drive, Rochester, IN. This property consists of three lots, each measuring sixty feet wide by one hundred sixty seven feet deep (60' x 167'), which is approximately 30,060 square feet (see attachments labeled A).

Plan Director, Casi Cramer, explained the R1 District does not allow singlewide mobile homes as a permitted residential use. The Zoning Ordinance states only manufactured structures, such as doublewides and modular homes, as well as, stick built homes may be permitted residential uses. Mr. Smith would like to replace his existing 12' x 50' singlewide mobile home with a 16' x 80' singlewide mobile home. In order for Mr. Smith to be able to place the new singlewide home he must ask for a use variance. The land that the proposed mobile home will be placed upon is predominately located within the floodway. Casi noted the three lots total 30,060 square feet, but only 3,240 square feet does not sit within the floodway (see attachment B). All of the area that sits below the ground elevation of 726 feet is deemed in the floodway and nonbuildable by the Department of Natural Resources (DNR). Casi explained the foundation of the dwelling can sit at 726 feet but the finished floor area must sit at 728 feet. The DNR's regulations concerning dwellings in the floodway are the driving force behind the request for the use variance. The DNR requires that a singlewide mobile home be replaced by a singlewide mobile home and considers this type of replacement general maintenance. The DNR also requires the County Floodplain Inspector to classify the existing dwelling as dilapidated. The DNR states that the replacement dwelling cannot be any larger than 1.5 times the existing dwellings square footage. Casi then explained any dwelling placed in the R1 District must sit thirty feet (30') off of the Right of Way of the road and ten feet (10') off of the side and rear property lines. Mr. Smith has a thirty six foot by ninety foot (36' x 90') area in which he can build according to the DNR. Casi said River Drive has a total Right of Way of forty feet (40'), therefore any new dwelling or structure would have to sit fifty feet (50') from the centerline of River Drive. If Mr. Smith's use variance is approved he will also need to ask for a Development Standards Variance from the front yard setback. The proposed dwelling would sit twenty to nineteen feet off of the Right of Way of River Drive (see attachment C). Casi stated the Board needed to keep in mind that the Ordinance states there must be a hardship with the land to be able to grant a use variance.

Vice-Chairperson, Dan Walsh, asked if there was any further information Mr. Smith would like to add to the Plan Director's presentation.

FULTON COUNTY BOARD OF ZONING APPEALS
JANUARY 14, 2004

Lyle Smith; 9936 River Drive, Rochester, IN; said he wants to replace his 12' x 50' singlewide mobile home with a 16' x 80' singlewide mobile home. Mr. Smith stated he does not have much of a choice on what he can or cannot do since most of his property is in the floodway.

Dan Walsh then asked for any Board member questions to the staff or petitioner.

Dan said he thought there would be enough room to place a doublewide dwelling on the property (which is a permitted use in the R1 District) but Mr. Smith would be asking for at least a twenty two foot (22') variance instead of the eleven foot (11') variance he would need with a singlewide dwelling.

Linda Herd noted if Mr. Smith placed a doublewide dwelling on the property he would be closer to River Drive than he would be if he went with a singlewide dwelling.

Steve Furnivall felt there was a hardship with the land because of the floodway area but was unsure if he wanted to see singlewide mobile homes allowed within the R1 District. He said when driving through the area most of the existing dwellings are singlewide mobile homes. Steve said he would rather see a singlewide mobile home be placed on the property so that it is further away from the road.

Debbie Barts commented a twenty two foot (22') variance is a lot to ask for also. She also felt more comfortable with having the dwelling sitting further away from the road.

Dan Walsh asked for any further questions from the Board members to the petitioner or the Plan Director. Being none, he entertained a motion to open the public hearing. Debbie Barts moved to open the public hearing. Linda Herd seconded the motion. Motion carried as follows: Debbie Barts, Linda Herd, Steve Furnivall, and Dan Walsh being in favor and no one opposing.

Dan asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing. Being none, he asked for those opposing the petition to do the same.

Being none, Dan entertained a motion to close the public hearing. Debbie Barts moved to close the public hearing. Linda Herd seconded the motion. Motion carried as follows: Debbie Barts, Linda Herd, Steve Furnivall, and Dan Walsh being in favor and no one opposing.

Dan asked for any further Board member comments or questions.

Dan questioned if the new home would sit in front of the existing home. Casi Cramer said it would sit in front of the existing home closer to the road.

Debbie Barts said she would have a hard time allowing a doublewide dwelling to sit only three feet off of the Right of Way of a road. She stated there are mostly singlewide mobile homes in that area around the Tippecanoe River and the Board may want to consider what is already located in that area when making their decision. She felt maybe singlewide mobile homes were not placed within the R1 District so that the Board can look at them individually.

Linda Herd agreed with Debbie in the aspect that she could not see a doublewide sitting any closer to the road than what Mr. Smith is already requesting with the singlewide mobile home.

Steve Furnivall asked Mr. Smith if he had given any thought to placing a doublewide dwelling on the property. Mr. Smith said no due to the fact he feels it would sit to close to the road as well.

Dan Walsh entertained a motion regarding the petition. Steve Furnivall moved to approve Docket #BZA 59-0403 Lyle Smith, requesting a Use Variance for the purpose of placing a singlewide

FULTON COUNTY BOARD OF ZONING APPEALS
JANUARY 14, 2004

mobile home within the Residential Cluster District (R1) located at 9936 River Drive, Rochester, IN. Debbie Barts seconded the motion.

The Board members then proceeded to fill out their Findings of Fact forms (see attachments labeled D). The Administrative Secretary, Erica Tyler, conducted a roll call vote:

Steve Furnivall	Yea
Linda Herd	Yea
Debbie Barts	Yea
Dan Walsh	Yea

The motion to approve Docket #BZA 59-0403 Lyle Smith, requesting a Use Variance for the purpose of placing a singlewide mobile home within the Residential Cluster District (R1) located at 9936 River Drive, Rochester, IN passed with four votes being in favor and no one opposing.

Casi Cramer stated Mr. Smith would be in front of the Board of Zoning Appeals on February 11, 2004 to ask for a Development Standards Variance from the front yard setback.

IN RE: NEW BUSINESS

ANDY & ADA YODER
SPECIAL EXCEPTION

Andy and Ada Yoder, Docket #BZA 74-1203, Special Exception. Mr. and Mrs. Yoder are requesting a special exception to operate a Fabric and Variety Shop on their property. The property is located within an Agricultural District (AG) at 2200 South State Road 19, Akron, IN. The Fabric and Variety Shop would be located within an existing accessory building located on the property. This tract of land consists of five acres (see attachments labeled E).

Plan Director, Casi Cramer, explained the Yoder's would like to develop a shop that sells fabric, clothing, crafts, toys, shoes, hats, etc. The shop would be located in the existing building located on the property. The Yoder's have submitted an application to the State Board of Health for a commercial septic system, but are still waiting for a response. The Yoder's have stated that they will acquire portable toilets if there are issues with them installing a commercial septic system for the shop. Casi said the hours of operation for the shop would be Monday, Tuesday, Friday, and Saturday 8:00 A.M. to 5:00 P.M.; Wednesday 8:00 A.M. to 8:00 P.M.; Thursday and Sunday closed. Casi noted the parking area for the shop would be to the east of the shop off of State Road 19. The parking area will have to meet the parking standards prescribed in the Fulton County Zoning Ordinance, which are PK-02, PK-03, PK-05, and PK-06. These standards are as follows:

PK-02: All parking lots for commercial, industrial, business, public and private employee parking, offices, organizations, and places of assembly must be paved with asphalt, concrete or other dust free and durable material. In addition, these parking lots must also conform to all the following requirements

- A. All ingress/egress into parking areas must be paved with asphalt, concrete or other dust free and durable materials.
- B. Parking areas must be constructed to allow proper drainage.
- C. Parking areas must be designed as to prevent vehicles from having to back into public streets.

FULTON COUNTY BOARD OF ZONING APPEALS
JANUARY 14, 2004

- D. Parking lots shall have a minimum front yard setback of fifteen (15) feet.
- E. Parking spaces required in this standard must be located either on the premises or on a lot approved by the Plan Commission. All required off-street parking spaces, however, must be located within six hundred feet (600') of the respective lot.
- F. Parking spaces shall be a minimum of 9' x 18'. Parking aisle widths shall be as follows:
 - ◆ 90 degree angle space – 24' wide parking aisle
 - ◆ 60degree angle space – 18' wide parking aisle
 - ◆ 45 degree angle space – 14' wide parking aisle
- G. A group of adjacent properties may provide a joint parking area if the number of spaces required for all properties is adequate, and at least eighty percent (80%) of the total spaces required for each use. A permanent documentation of the agreement must be recorded with both properties. A permanent written agreement signed by all property owners involved which shall include but is not limited to the following items: maintenance, snow removal, ownership, and liability. The agreement shall be reviewed/approved by the Zoning Administrator and/or Plan Commission Attorney. The agreement shall be recorded in the office of the Fulton County Recorder. A copy of which shall be kept in the office of the Plan Commission. The Zoning Administrator shall approve aggregate parking lots such as mentioned above.

PK-03: To reduce traffic congestion and hazards along roadways, off-street parking shall be required for business and industrial uses. The minimum number of parking spaces shall be determined by adding up the spaces required for each applicable statement below:

- A. One and eight tenths (1.8) parking spaces per employee (rounded up to the nearest whole number) for the largest working shift. For example if there are two (2) shifts, first shift with five (5) employees and the second with seven (7) employees; thirteen (13) parking places would be required to accommodate the employees on the largest shift.
- B. One parking space for every four (4) chairs/seats in restaurants, food services, movie theatre, auditorium, or church.
- C. One parking space per 500 square feet of Gross Floor Area in all hardware stores, home improvement stores, furniture stores and community centers.
- D. One parking space per every 300 square feet of Gross Floor Area in all convenience stores, gasoline stations, grocery stores, banks, medical clinics and department stores.
- E. One parking spacer per every one sleeping unit in a hotel, motel, boarding/lodging house or bed in breakfast.
- F. Additional parking spaces may be required by the Plan Commission.

PK-05: If more than two (2) vehicles without a current year license plate or in inoperable condition are stored on a property in residential and agricultural zone districts the following conditions apply.

- A. They must be parked:
 - a. in completely enclosed buildings, or

FULTON COUNTY BOARD OF ZONING APPEALS
JANUARY 14, 2004

- b. a minimum of two hundred feet (200') from the front property line, a minimum of fifty feet (50') from the side property line, or in the rear yard, or
 - c. a minimum of two hundred feet (200') from a lake or river.
- B. They must be screened from view. Screening includes fencing, landscaping, or placement so that it may not be seen from the road.

PK-06: No vehicle or tractor/trailer of any type may be used for the purpose of storage.

Casi Cramer stated she saw no problems with this proposed Fabric and Variety Shop but would recommend that there be no off street parking along State Road 19, the parking area conforms to the Fulton County Zoning Ordinance, a public restroom facility be located on site at all times during business operations, and have approval from the State Board of Health and the Fulton County Health Department for the public restroom prior to operation of any kind of business.

Vice-Chairperson, Dan Walsh, asked if there was any further information Mr. or Mrs. Yoder would like to add to the Plan Director's presentation.

Andy Yoder, 2200 S St Rd 19, said he had nothing further to add at this time.

Dan Walsh then asked for any Board member questions to the staff or petitioner. Being none, he entertained a motion to open the public hearing. Steve Furnivall moved to open the public hearing. Linda Herd seconded the motion. Motion carried as follow: Steve Furnivall, Linda Herd, Debbie Barts, and Dan Walsh being in favor and no one opposing.

Dan asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing.

Cletus Ramer, 4505 N St Rd 19, stated this type of store is needed for the Amish community and he feels that it is a great location for that purpose.

Dan asked for any further comments in favor of the petition. Being none, he asked for those opposing the petition to rise and state their name, address, and reason for attending the public hearing. Being none, he entertained a motion to close the public hearing. Debbie Barts moved to close the public hearing. Linda Herd seconded the motion. Motion carried as follows: Debbie Barts, Linda Herd, Steve Furnivall, and Dan Walsh being in favor and no one opposing.

Dan asked for any further Board member comments or questions.

Steve Furnivall commented that they had received a letter from one of the interested parties stating that they had no problem with the store and thought it was a great idea. Steve said he wanted to make sure that the parking area conformed to the Fulton County Zoning Ordinance. Steve did not think it was a State requirement for them to have a public restroom facility but if they wished to do so then he would want both State and County Health Department approvals.

Debbie Barts voiced concern about vehicles trying to back out onto State Road 19. Debbie said she wanted to make sure the parking area conformed to the Fulton County Zoning Ordinance as well to help remedy her concern.

Dan Walsh entertained a motion regarding the petition. Linda Herd moved to approve Docket #BZA 74-1203 Andy & Ada Yoder, requesting a Special Exception to operate a Fabric/Variety Store at, 2200 South State Road 19, Akron, IN, located in the Agricultural District (AG) with the

FULTON COUNTY BOARD OF ZONING APPEALS
JANUARY 14, 2004

following conditions: 1) The parking area must conform to the Fulton County Zoning Ordinance; 2) There must be some type of public restroom facility located on site, at all times, during business operations; and 3) The State Board of Health and the Fulton County Health Department must give their approval of any public restroom facility prior to the operation of any kind of business. Steve Furnivall seconded the motion.

The Board members then proceeded to fill out their Findings of Fact forms (see attachments labeled F). The Administrative Secretary, Erica Tyler, conducted a roll call vote:

Debbie Barts	Yea
Linda Herd	Yea
Steve Furnivall	Yea
Dan Walsh	Yea

The motion to approve Docket #BZA 74-1203 Andy & Ada Yoder, requesting a Special Exception to operate a Fabric/Variety Store at, 2200 South State Road 19, Akron, IN, located in the Agricultural District (AG) with the following conditions: 1) The parking area must conform to the Fulton County Zoning Ordinance; 2) There must be some type of public restroom facility located on site, at all times, during business operations; and 3) The State Board of Health and the Fulton County Health Department must give their approval of any public restroom facility prior to the operation of any kind of business passed with four votes being in favor and no one opposing.

IN RE: PLAN DIRECTOR REPORT

Casi Cramer presented the Board with the 2003 Year End Report of permits, applications, violations, and complaints that have occurred in the Plan Commission Office. (See attachment G)

It is duly noted that there were no Public Comments or Board Comments given at this time.

Being no further business to come in front of the Board of Zoning Appeals, Dan Walsh, entertained a motion to adjourn the January 14, 2004 Fulton County Board of Zoning Appeals meeting. Debbie Barts moved to adjourn the January 14, 2004 Fulton County Board of Zoning Appeals meeting at 7:55 P.M. Linda Herd seconded the motion. Motion carried as follows: Debbie Barts, Linda Herd, Steve Furnivall, and Dan Walsh being in favor and no one opposing.

FULTON COUNTY BOARD OF ZONING APPEALS

ATTEST: _____
Erica A. Tyler, Administrative Secretary

FULTON COUNTY BOARD OF ZONING APPEALS
FEBRUARY 11, 2004

FULTON COUNTY BOARD OF ZONING APPEALS

WEDNESDAY, FEBRUARY 11, 2004

7:00 P.M.

COMMISSIONERS/COUNCIL ROOM

CALL TO ORDER

BOARD OF ZONING APPEALS MINUTES FOR:

January 14, 2004

OLD BUSINESS

NEW BUSINESS:

73-1103 Lyle Smith

76-0104 Eva Green

Rules of Procedure

PLAN DIRECTOR REPORT

PUBLIC COMMENTS

BOARD COMMENTS

ADJOURNMENT

FULTON COUNTY BOARD OF ZONING APPEALS

FEBRUARY 11, 2004

The Fulton County Board of Zoning Appeals met on Wednesday the 11th day of February 2004, at 7:00 P.M., in the Commissioners/Council Room located in the Fulton County Office Building. Executive Secretary, Linda Herd, called the meeting to order at 7:10 P.M. The following members were present: Executive Secretary, Linda Herd; Steve Furnivall; and Debbie Barts. Also in attendance were: Plan Director, Casi Cramer and BZA Attorney, Greg Heller. It is duly noted that the following members were absent: Chairperson, Mark Martens; Vice Chairperson, Dan Walsh and Administrative Secretary, Erica Tyler.

IN RE: MINUTES

JANUARY 14, 2004

Executive Secretary, Linda Herd, asked for any additions, deletions, or corrections to be made to the January 14, 2004 Board of Zoning Appeals minutes. Being none, Debbie Barts moved to approve the January 14, 2004 Board of Zoning Appeals minutes. Steve Furnivall seconded the motion. Motion carried as follows: Debbie Barts, Steve Furnivall, and Linda Herd being in favor and no one opposing.

It is duly noted there was no Old Business reported at this time.

IN RE: NEW BUSINESS

LYLE SMITH
DEVELOPMENT STANDARDS VARIANCE

Lyle Smith, Docket #BZA 73-1103, Development Standards Variance. Mr. Smith is requesting a Development Standards Variance of eleven (11) feet off of the required front yard setback. Mr. Smith obtained a Use Variance to place a singlewide mobile home on this property in question. The property is located at 9936 River Drive, Rochester, IN, which is within a Residential Cluster District (R1) (see attachment A). Mr. Smith's property consists of three lots (each lot is 60' wide by 167' deep), which altogether equal 30,060 square feet. Mr. Smith is in the process of purchasing these lots from Mr. James Dover. Mr. Dover sent the Plan Commission Office an ownership verification letter stating that Mr. Smith's requests did not contradict his wishes as the property owner.

Plan Director, Casi Cramer, explained Mr. Smith obtained a Use Variance on January 14, 2004 for the placement of a singlewide mobile home within the Residential Cluster District (R1). Casi stated Mr. Smith would be replacing his current 12' x 50' singlewide mobile home with a 16' x 80' singlewide mobile home. Mr. Smith's property is predominately located within the floodplain of Tippecanoe River. Casi noted the three lots total 30,060 square feet, but only 3,240 square feet does not sit within the floodplain (see attachment B). Due to the fact Mr. Smith only has an area of 3,240 square feet in which he can build upon, he must request a development standards variance of the front yard setback. Casi said Mr. Smith must obtain an eleven (11) foot variance off of the required front yard setback. The required front yard setback for the R1 District is thirty (30) feet off of the Right-Of-Way of the road. Mr. Smith's home would be nineteen (19) feet off of the Right-Of-Way on the west side of the home and twenty (20) feet off of the Right-Of-Way on the east side of the home (see attachment C). River Drive has a total Right-Of-Way of forty (40) feet. Casi Cramer explained Mr. Smith would meet all other required setbacks. If approved, the singlewide mobile home will sit ten (10) feet off of the Side Property Lines, approximately 135 feet off of the Rear Property Line, and will have a minimum main floor area of 1,280 square feet.

Executive Secretary, Linda Herd, asked if there was any further information Mr. Smith would like to add to the Plan Director's presentation. Mr. Smith said he had nothing further to add at this time.

FULTON COUNTY BOARD OF ZONING APPEALS

FEBRUARY 11, 2004

Linda Herd then asked for any Board member questions to the staff or the petitioner. Being none, she entertained a motion to open the public hearing. Steve Furnivall moved to open the public hearing. Debbie Barts seconded the motion. Motion carried as follows: Steve Furnivall, Debbie Barts, and Linda Herd being in favor and no one opposing.

Linda asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing. Being none, she asked for those opposing the petition to do the same. Being none, Linda entertained a motion to close the public hearing.

Steve Furnivall moved to close the public hearing. Debbie Barts seconded the motion. Motion carried as follows: Steve Furnivall, Debbie Barts, and Linda Herd being in favor and no one opposing.

Linda Herd asked for any further Board member comments or questions. Being none, she entertained a motion regarding the petition. Steve Furnivall moved to approve Docket #BZA 73-1103 Lyle Smith, requesting a Development Standards Variance of eleven (11) feet off of the required front yard setback located at 9936 River Drive, Rochester, IN, for the placement of a sixteen foot by eighty foot (16' x 80') singlewide mobile home. Debbie Barts seconded the motion.

The Board members then proceeded to fill out their Findings of Fact forms (see attachments labeled D). Plan Director, Casi Cramer, conducted a roll call vote:

Debbie Barts	Yea
Steve Furnivall	Yea
Linda Herd	Yea

The motion to approve Docket #BZA 73-1103 Lyle Smith, requesting a Development Standards Variance of eleven (11) feet off of the required front yard setback located at 9936 River Drive, Rochester, IN, for the placement of a sixteen foot by eighty foot (16' x 80') singlewide mobile home passed with three votes being in favor and no one opposing.

IN RE: NEW BUSINESS

EVA GREEN
SPECIAL EXCEPTION

Eva Green, Docket #BZA 76-0104, Special Exception. Mrs. Green is requesting a Special Exception for a temporary second dwelling to be placed on her property, located at 4104 East 700 North, Rochester, IN (see attachment E). The property sits within the Agricultural District (AG) and consists of seventy three hundredths (.73) of an acre. The temporary second dwelling will be a sixteen foot by eighty foot (16' x 80') singlewide mobile home, which will be utilized by Mrs. Eva Green. Mrs. Green's son and wife (Barry & Schenna Green) will be purchasing the existing home located on the property but they wish to keep their mother/mother-in-law close by.

Plan Director, Casi Cramer, explained Mrs. Green will be selling the existing home and property to her son and daughter-in-law but they wish to keep her near by so they may assist her in anyway needed. Casi noted in 1993 a singlewide mobile home, which was removed some time ago, sat in the exact spot Mrs. Green has proposed to place her mobile home. Mrs. Green has contacted the Fulton County Health Department to see if she could utilize the existing well and septic system placed on the property in 1993. Wes Burden, Health Department Sanitarian, told Mrs. Green he had record of the existing well and septic system and he did not foresee any problems with the new home being hooked up to those. However, the Plan Commission Office has not received a letter stating this issue. Casi said if the petition were approved she would be sure to obtain a letter from Mr. Burden before approving Mrs.

FULTON COUNTY BOARD OF ZONING APPEALS

FEBRUARY 11, 2004

Green's Location Improvement Permit. If approved Mrs. Green will have to keep the singlewide mobile home forty (40) feet off of the Right-Of-Way of 700 North, fifteen (15) feet off of the side property lines, and fifteen (15) feet off of the rear property line. Casi Cramer recommended the following conditions be placed on the petition if approved: 1) Mrs. Green is required to meet the regulations stipulated by the Fulton County Zoning Ordinance, the Fulton County Building Code, and the Fulton County Health Department prior to the placement of the temporary home; 2) the temporary home is never used as a rental unit; 3) the temporary home be utilized as a dwelling for no one except Mrs. Green; 4) the temporary home is removed after Mrs. Green no longer utilizes it as a dwelling; and 5) the temporary home is either removed or a renewal requested, no later than two years from the date of Mrs. Green's public hearing, February 11, 2004.

Executive Secretary, Linda Herd, asked if there was any further information Mrs. Green would like to add to the Plan Director's presentation.

Barry Green, 4058 E 700 N Rochester IN, said he and his wife will be purchasing the land and existing home from his mother. Mr. Green noted that the singlewide mobile home would meet all of the requirements listed within the Fulton County Zoning Ordinance.

Linda Herd then asked for any Board member questions to the staff or the petitioner. Being none, she entertained a motion to open the public hearing. Steve Furnivall moved to open the public hearing. Debbie Barts seconded the motion. Motion carried as follows: Steve Furnivall, Debbie Barts, and Linda Herd being in favor and no one opposing.

Linda asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing. Being none, she asked for those opposing the petition to do the same. Being none, Linda entertained a motion to close the public hearing.

Steve Furnivall moved to close the public hearing. Debbie Barts seconded the motion. Motion carried as follows: Steve Furnivall, Debbie Barts, and Linda Herd being in favor and no one opposing.

Linda Herd asked for any further Board member comments or questions. Being none, she entertained a motion regarding the petition. Debbie Barts moved to approve Docket #BZA 76-0104 Eva Green, requesting a Special Exception to place a temporary second dwelling at, 4104 East 700 North, Rochester, IN, within the Agricultural District (AG) with the following conditions: 1) Mrs. Green is required to meet the regulations stipulated by the Fulton County Zoning Ordinance, the Fulton County Building Code, and the Fulton County Health Department prior to the placement of the temporary home; 2) the temporary home is never used as a rental unit; 3) the temporary home be utilized as a dwelling for no one except Mrs. Green; 4) the temporary home is removed after Mrs. Green no longer utilizes it as a dwelling; and 5) the temporary home is either removed or a renewal requested, no later than two years from the date of Mrs. Green's public hearing, February 11, 2004. Steve Furnivall seconded the motion.

The Board members then proceeded to fill out their Findings of Fact forms (see attachments labeled F). Plan Director, Casi Cramer, conducted a roll call vote:

Debbie Barts	Yea
Steve Furnivall	Yea
Linda Herd	Yea

The motion to approve Docket #BZA 76-0104 Eva Green, requesting a Special Exception to place a temporary second dwelling at, 4104 East 700 North, Rochester, IN, within the Agricultural District (AG) with the following conditions: 1) Mrs. Green is required to meet the regulations stipulated by the Fulton County Zoning Ordinance, the Fulton County Building Code, and the Fulton County Health Department prior to the placement of the

FULTON COUNTY BOARD OF ZONING APPEALS

FEBRUARY 11, 2004

temporary home; 2) the temporary home is never used as a rental unit; 3) the temporary home be utilized as a dwelling for no one except Mrs. Green; 4) the temporary home is removed after Mrs. Green no longer utilizes it as a dwelling; and 5) the temporary home is either removed or a renewal requested, no later than two years from the date of Mrs. Green's public hearing, February 11, 2004 passed with three votes being in favor and no one opposing.

IN RE: NEW BUSINESS

RULES OF PROCEDURE
REVISIONS

Plan Director, Casi Cramer, noted that the Advisory Plan Commission Board made some revisions to their Rules of Procedure during their meeting on February 9, 2004. Casi asked the BZA Board members to look through their Rules of Procedure to see if there are any revisions that need to be done. The Board consensus was that nothing in the Rules of Procedure needed to be revised at this time.

IN RE: PLAN DIRECTOR REPORT

Casi Cramer presented the Board with the 2003 Year End Report of permits, applications, violations, and complaints that have occurred in the Plan Commission Office. (See attachment G)

It is duly noted that there were no Public Comments or Board Comments given at this time.

Being no further business to come in front of the Board of Zoning Appeals, Linda Herd entertained a motion to adjourn the February 11, 2004 Board of Zoning Appeals meeting. Debbie Barts moved to adjourn the February 11, 2004 Board of Zoning Appeals meeting at 7:35 P.M. Steve Furnivall seconded the motion. Motion carried as follows: Debbie Barts, Steve Furnivall, and Linda Herd being in favor and no one opposing.

FULTON COUNTY BOARD OF ZONING APPEALS

ATTEST: _____
Erica A. Tyler, Administrative Secretary

FULTON COUNTY BOARD OF ZONING APPEALS

WEDNESDAY, MARCH 10, 2004

7:00 P.M.
COMMISSIONERS/COUNCIL ROOM

CALL TO ORDER

BOARD OF ZONING APPEALS MINUTES FOR:
February 11, 2004

OLD BUSINESS

NEW BUSINESS:
75-1203 Craig Ammerman
77-0104 Dennis McKee
78-0104 Dennis McKee

PLAN DIRECTOR REPORT

PUBLIC COMMENTS

BOARD COMMENTS

ADJOURNMENT

FULTON COUNTY BOARD OF ZONING APPEALS
MARCH 10, 2004

The Fulton County Board of Zoning Appeals met on Wednesday the 10th day of March 2004, at 7:00 p.m., in the Commissioners/Council Room located in the Fulton County Office Building. Chairperson, Mark Martens, called the meeting to order at 7:06 p.m. The following members were present: Chairperson, Mark Martens; Vice Chairperson, Dan Walsh; Executive Secretary, Linda Herd; and Debbie Barts. Also in attendance were: Plan Director, Casi Cramer; Administrative Secretary, Erica Tyler; and BZA Attorney, Greg Heller. It is duly noted that BZA Member, Steve Furnivall, was absent.

IN RE: MINUTES

FEBRUARY 11, 2004

Chairperson, Mark Martens, asked for any additions, deletions, or corrections to be made to the February 11, 2004 Board of Zoning Appeals minutes. Being none, Debbie Barts moved to approve the February 11, 2004 Board of Zoning Appeals minutes. Linda Herd seconded the motion. Motion carried as follows: Debbie Barts, Linda Herd, Dan Walsh, and Mark Martens being in favor and no one opposing.

It is duly noted that there was no Old Business reported at this time.

IN RE: NEW BUSINESS

CRAIG AMMERMAN
DEVELOPMENT STANDARD VARIANCE

Craig Ammerman, Docket #BZA 75-1203, Development Standards Variance. Mr. Ammerman is requesting two Development Standard Variances for the purpose of splitting his property. The property currently consists of 2.28 acres and is located within an Agricultural District (AG). Mr. Ammerman would like to split his property into two separate tracts for the purpose of building a house on the newly created vacant lot. There is an existing home located on the property. The property is more commonly known as 13107 East State Road 114, Akron, IN (see attachment A).

Plan Director, Casi Cramer, explained the AG District has standards regarding any newly created lot. They are as follows: Minimum Lot Area is equal to one (1) acre; Minimum Lot Width must be 200 feet wide all the way through the lot; Minimum Lot Frontage must be 100 feet on a public street with access from said public street; and Maximum Lot Depth cannot be more than 3 times the Lot Width. Casi noted the property currently measures 401.7 feet at the front but is only 357.7 feet at the rear of the property. Therefore, it is not possible for Mr. Ammerman to split his property in a way that would comply with the Fulton County Zoning Ordinance without asking for two Development Standards Variances. Casi stated Mr. Ammerman is requesting a variance of 22.3 feet off of the required minimum lot width for Tract 1 and a variance of 20 feet off of the required minimum lot width for Tract 2. If the variances are approved Tract 1 will measure 200.7 feet at the front of the lot and 177.7 feet at the rear of the lot; equaling 1.26 acres. Tract 2 will measure 201 feet at the front of the lot and 180 feet at the rear of the lot; equaling 1.02 acres. The existing home would then be on Tract 2.

Chairperson, Mark Martens, asked if there was any further information Mr. Ammerman would like to add to the Plan Director's presentation. Mr. Ammerman said he just wanted to split the land for his daughter to build a home on.

Mark Martens then asked for any Board member questions to the staff or the petitioner.

FULTON COUNTY BOARD OF ZONING APPEALS
MARCH 10, 2004

Dan Walsh questioned who owned the little strip of land between what would be Tract 2 and the next property to the east of the property in question. Casi Cramer stated that strip of land belongs to Hangtime BMX Race Park, but they do not currently utilize it. Mr. Ammerman explained it is supposed to be another access leading into the Race Park but they have not utilized it for several years. Mr. Ammerman stated he and his wife mow and maintain that strip of land.

Debbie Barts and Dan Walsh both questioned if the west side of Tract I went into the neighbors driveway. Mr. Ammerman said the west side property line of Tract I would be five to ten feet east of that driveway. It was also noted that that particular piece of property was an abandoned church, which no one claims responsibility for. Casi Cramer said the owners of that property have had to be notified of other petitions in the area as well as this particular petition and every time a letter is sent certified mail it is returned unclaimed.

Being no further questions from the Board members, Mark Martens entertained a motion to open the public hearing. Debbie Barts moved to open the public hearing. Dan Walsh seconded the motion. Motion carried as follows: Debbie Barts, Dan Walsh, Linda Herd, and Mark Martens being in favor and no one opposing.

Chairperson, Mark Martens, asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing. Being none, he asked for those opposing the petition to do the same. Being none, Mark entertained a motion to close the public hearing.

Dan Walsh moved to close the public hearing. Debbie Barts seconded the motion. Motion carried as follows: Dan Walsh, Debbie Barts, Linda Herd, and Mark Martens being in favor and no one opposing.

Mark Martens asked for any further Board member comments or questions.

Debbie Barts said she did not see a problem with allowing this split because of its location. She added this type of variance might not be one she would want to see done in another area of the county but in this area she feels it is ok.

Dan Walsh stated his concern was with the little strip of land belonging to Hangtime BMX Race Park and making sure that whoever owns Tract 2 does not encroach on that piece of property. Dan said he did not see a problem with the variances.

Mark Martens said he does not feel this split is out of character for the area in which it is located. He said he likes the fact that the split still keeps 200 feet of frontage on the road.

Mark then asked for any further Board member comments or questions. Being none, he entertained a motion regarding the petition.

Dan Walsh moved to approve, Docket #BZA 75-1203 Craig Ammerman, requesting Development Standards Variances off of the required rear lot width of the two newly created lots. Lot 1 having a variance of 22.3 feet and Lot 2 having a variance of 20 feet. This tract of land is located in the Agricultural District (AG) at I3107 E St Rd II4, Akron, IN. Debbie Barts seconded the motion.

The Board members then proceeded to fill out their Findings of Fact forms (see attachments labeled B). The Administrative Secretary, Erica Tyler, conducted a roll call vote:

Debbie Barts	Yea
Dan Walsh	Yea
Linda Herd	Yea
Mark Martens	Yea

FULTON COUNTY BOARD OF ZONING APPEALS
MARCH 10, 2004

The motion to approve, Docket #BZA 75-1203 Craig Ammerman, requesting Development Standard Variances off of the required rear lot width of two newly created lots located in the Agricultural District (AG) at 13107 E St Rd 114, Akron, IN; Lot 1 having a variance of 22.3 feet and Lot 2 having a variance of 20 feet, passed with four votes in favor and no one opposing.

IN RE: NEW BUSINESS

DENNIS MCKEE
SPECIAL EXCEPTION &
DEVELOPMENT STANDARD VARIANCE

Dennis McKee, Docket #BZA 77-0104, Special Exception. Mr. McKee is requesting a Special Exception to allow a 24' x 90' Public Storage Unit Building on his property. The property is located at 208 North Noyer Street, Akron, IN, which is within an Agricultural District (AG). The property consists of .359 acre (see attachment C). If Mr. McKee's Special Exception is granted he will also have to ask for a Development Standard Variance, Docket #BZA 78-0104, of ten feet (10') off of the required side yard setback.

Plan Director, Casi Cramer, noted there is an existing grandfathered 24.1' x 80.1' storage building currently on the property. Casi said Mr. McKee's property is actually made up of four different tracts, which altogether total .359 acre. Mr. McKee is in the process of purchasing these tracts and having them all combined into one legal description. The proposed 24' x 90' storage building would contain four 4' x 7' doors with 10' deep storage units on the south side and eight 8'10" x 7' doors with 24' deep storage units along the east side of the building. Casi noted the proposed building would form an "L" shape with the existing building (see attachment D). Mr. McKee has stated that he will be placing some type of barrier between the buildings in order to stop the traffic flow from traveling between them. Casi said there is an existing parking area that allows access to the existing building, which would be utilized to gain access to the proposed building. Casi explained any new parking area added to the existing parking area, would have to comply to the following parking standards in the Fulton County Zoning Ordinance: PK-01, PK-03, PK-05 and PK-06.

Casi Cramer stated if the Special Exception is approved Mr. McKee will need to request a Development Standard Variance. Mr. McKee's property lies within the Agricultural District (AG), which has a front yard setback of forty feet (40') off of the right-of-way of any local or county road; a side property setback of fifteen feet (15'); and a rear property setback of fifteen feet (15'). Casi stated the drive, which runs Northwest of Mr. McKee's property is a private driveway, not a local or county road. Therefore, Mr. McKee would have to stay fifteen feet away from the private driveway. Casi explained Mr. McKee's request stems from the design of the new building in relation to its proximity with the existing building. Mr. McKee is requesting to set the storage building five feet (5') off of the North property line, instead of the required fifteen feet (15'), to help minimize any wasted space, which would be located between the buildings and inaccessible by vehicles for loading and unloading. Casi stated Mr. McKee would meet all other required setbacks. Casi noted again that Mr. McKee would be placing some type of barrier between the buildings to help prevent the traffic flow from traveling between the buildings.

Plan Director, Casi Cramer, said the location of the property is ideal since it is on the western edge of the Town of Akron, which allows easy access and availability to the residents of Akron. She added the proposed building would be located approximately one hundred feet (100') off of Noyer Street and both Noyer Street and Walnut Street have minimal speed limits since they are located within the Town of Akron. Also, there would be no adverse effect of the safety and welfare of motorists on the private drive since it is not utilized as a roadway. Casi Cramer noted Mr. McKee could change his building specifications to a 24' x 80' storage building and would meet all of the required setbacks for the AG District.

Chairperson, Mark Martens, asked if there was any further information Mr. McKee would like to add to the Plan Director's presentation. Mr. McKee said he wants to set his buildings in a way that is most appealing to the property and

FULTON COUNTY BOARD OF ZONING APPEALS
MARCH 10, 2004

his business. He also stated the four tracts, which create his property, are in the process of being combined to form one legal description or tract.

Mark Martens then asked for any Board member questions to the staff or the petitioner. Being none, Mark Martens entertained a motion to open the public hearing. Debbie Barts moved to open the public hearing. Linda Herd seconded the motion. Motion carried as follows: Debbie Barts, Linda Herd, Dan Walsh, and Mark Martens being in favor and no one opposing.

Chairperson, Mark Martens, asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing. Being none, he asked for those opposing the petition to do the same. Being none, Mark entertained a motion to close the public hearing.

Dan Walsh moved to close the public hearing. Linda Herd seconded the motion. Motion carried as follows: Dan Walsh, Linda Herd, Debbie Barts, and Mark Martens being in favor and no one opposing.

Mark Martens asked for any further Board member comments or questions.

Mark said he did not see where the development standard variance would be a problem since the private drive is only traveled upon once a month. The private drive leads back to the Town of Akron's waste stations. Mark Martens added it would be appealing to set the buildings in an "L" shape on the property as Mr. McKee has proposed. Mark advised Mr. McKee to place a barrier between the buildings to restrict the flow of traffic.

Debbie Barts felt the proposed site was a great location for the residents of the Town of Akron.

Dan Walsh noted if Mr. McKee would take ten feet (10') off of his proposed building making it eighty feet (80') in length instead of ninety feet (90') he would meet all required setbacks. However, since the road Northwest of the property is a private drive and not an actual roadway Dan does not see a problem with the ten foot (10') variance.

It was the Board consensus that if the private drive were an actual roadway they would have a problem granting the ten foot (10') variance.

Mark Martens then asked for any further Board member comments or questions.

Being none, he entertained a motion regarding the Special Exception petition. Linda Herd moved to approve Docket #BZA 77-0104 Dennis McKee, requesting a Special Exception to place a Storage Building at, 208 N Noyer St, Akron, IN, located in the Agricultural District (AG). Dan Walsh seconded the motion.

The Board members then proceeded to fill out their Findings of Fact forms (see attachments labeled E). The Administrative Secretary, Erica Tyler, conducted a roll call vote:

Linda Herd	Yea
Dan Walsh	Yea
Debbie Barts	Yea
Mark Martens	Yea

The motion to approve Docket #BZA 77-0104 Dennis McKee, requesting a Special Exception to place a Storage Building at, 208 N Noyer St, Akron, IN, located in the Agricultural District (AG) passed with four votes being in favor and no one opposing.

FULTON COUNTY BOARD OF ZONING APPEALS
MARCH 10, 2004

Mark Martens then entertained a motion regarding the Development Standard Variance petition. Linda Herd moved to approve Docket #BZA 78-0104 Dennis McKee, requesting a Development Standard Variance of ten feet (10') off of the required side yard setback located in the Agricultural District (AG) at 208 N Noyer St, Akron, IN. Debbie Barts seconded the motion.

The Board members then proceeded to fill out their Findings of Fact forms (see attachments labeled F). The Administrative Secretary, Erica Tyler, conducted a roll call vote:

Debbie Barts	Yea
Dan Walsh	Yea
Linda Herd	Yea
Mark Martens	Yea

The motion to approve Docket #BZA 78-0104 Dennis McKee, requesting a Development Standard Variance of ten feet (10') off of the required side yard setback located in the Agricultural District (AG) at 208 N Noyer St, Akron, IN passed with four votes being in favor and no one opposing.

IN RE: PLAN DIRECTOR REPORT

Casi Cramer presented the Board with an update of permits, applications, violations, and complaints that have occurred in the Plan Commission Office. (See attachment G)

Casi stated the singlewide mobile home in Marshstown, IN, that has been in violation for several months has been removed but their fines have not been paid. Casi explained BZA Attorney, Greg Heller, was looking into the situation and would be sending a letter to the owners of the property. Casi said she would update the Board on this situation at a later date.

Casi Cramer told the Board the enacting Ordinance for the Area Plan Commission would be read for the first time in front of the County Commissioners on Monday, March 15, 2004. The enacting Ordinance has to be read and voted on three times by the County Commissioners and the Akron Town Council. The Akron Town Council will have their first reading of the enacting Ordinance on Tuesday, March 16, 2004. Casi explained after both the County Commissioners and the Town of Akron pass the enacting Ordinance, the approved ordinance will be sent to the towns of Rochester, Fulton and Kewanna enabling them to also approve the ordinance and join the Area Plan Commission if they so choose.

It is duly noted that there were no Public Comments or Board Comments given at this time.

Being no further business to come in front of the Board of Zoning Appeals, Mark Martens entertained a motion to adjourn the March 10, 2004 Board of Zoning Appeals meeting. Dan Walsh moved to adjourn the March 10, 2004 Board of Zoning Appeals meeting at 8:05 p.m. Debbie Barts seconded the motion. Motion carried as follows: Dan Walsh, Debbie Barts, Linda Herd, and Mark Martens being in favor and no one opposing.

FULTON COUNTY BOARD OF ZONING APPEALS

ATTEST: _____
Erica A. Tyler, Administrative Secretary

FULTON COUNTY BOARD OF ZONING APPEALS
APRIL 14, 2004

FULTON COUNTY BOARD OF ZONING APPEALS

WEDNESDAY, APRIL 14, 2004

7:00 P.M.

COMMISSIONERS/COUNCIL ROOM

CALL TO ORDER

BOARD OF ZONING APPEALS MINUTES FOR:

March 10, 2004

OLD BUSINESS

NEW BUSINESS:

79-0304 Bruce Igo

80-0304 Ion Ramer

PLAN DIRECTOR REPORT

PUBLIC COMMENTS

BOARD COMMENTS

ADJOURNMENT

FULTON COUNTY BOARD OF ZONING APPEALS

APRIL 14, 2004

The Fulton County Board of Zoning Appeals met on Wednesday the 14th day of April 2004 at 7:00 P.M., in the Commissioners/Council Room located in the Fulton County Office Building. Chairperson, Mark Martens, called the meeting to order at 7:00 P.M. The following members were present: Chairperson, Mark Martens; Vice Chairperson, Dan Walsh; Executive Secretary, Linda Herd; and Steve Furnivall. Also in attendance were: Plan Director, Casi Cramer; Administrative Secretary, Erica Tyler; and BZA Attorney, Greg Heller. It is duly noted that BZA Member, Debbie Barts, was absent.

IN RE: MINUTES

MARCH 10, 2004

Chairperson, Mark Martens, asked for any additions, deletions, or corrections to be made to the March 10, 2004 Board of Zoning Appeals minutes. Being none, Dan Walsh moved to approve the March 10, 2004 Board of Zoning Appeals minutes. Linda Herd seconded the motion. Motion carried as follows: Dan Walsh, Linda Herd, Steve Furnivall and Mark Martens being in favor and no one opposing.

It is duly noted that there was no Old Business to report at this time.

IN RE: NEW BUSINESS

BRUCE IGO
SPECIAL EXCEPTION

Bruce Igo, Docket #BZA 79-0304, Special Exception. Mr. Igo is requesting a Special Exception to operate a Paintball Park on his property located at, 1760 South State Road 19, Akron, IN (see attachment A). The property in question consists of 18.24 acres and is located in an Agricultural District (AG). The name of the Paintball Park, if approved, will be "Be On Guard" or "B.O.G. Paintball Park".

Plan Director, Casi Cramer, noted Mr. Igo's property is located a third of a mile (.30 mile) south of the Akron Town Limits. Casi stated the property consists of two tracts of land, one tract equaling one acre and one tract equaling 17.23 acres. Each tract of land has a dwelling located on them. Casi explained the one acre tract was split off last year for the purpose of placing a doublewide manufactured home on it for Mrs. Igo's grandmother. The one acre tract is still in Bruce and Shannon Igo's name. Casi stated there are eight different types of soil that lie within the 18.23 acres, they are: Kosciusko (KoC), 6% to 12% Slope – 1.38 acres; Morley (MrB2), Moderate Slope – 1.60 acres; Brady (Br) – 1.43 acres; Blount (BlA) - .77 acres; Houghton Muck (Hm) – 6.08 acres; Pewamo (Pe) – 1.45 acres; Edwards Muck (Ed) – 3.51 acres; and Washtenaw (Wh) – 1.27 acres (see attachment C). Casi noted most of these soil types are somewhat poorly drained and slow to rapid permeable. The two dwellings are located on the BlA and MrB2 soil types which are deep, well drained, and moderately slowly permeable. Casi Cramer noted there are 40 parcels located within three tenths of a mile radius from the property. There are 21 homes (including the two on Mr. Igo's property) and 2 businesses located within three tenths of a mile as well. Casi explained the existing roadways would consist of State Road 19 East. The speed limit through this area is 35 miles per hour. There is an existing U-shaped driveway off of State Road 19 which will be utilized as the primary entrance and exit for any business authorized to be placed upon this property. Casi said there is a slight curve in State Road 19 but the existing driveway has good vision clearance for the existing curves in the road. Casi noted any new/revised driveway would have to be permitted through the Indiana Department of Transportation (INDOT). Casi explained the land is not suitable for residential purposes beyond its current number of dwellings due to the moderately wet, poorly drained soil.

FULTON COUNTY BOARD OF ZONING APPEALS
APRIL 14, 2004

Casi Cramer stated the proposed opening would be May 15, 2004. The proposed Spring (April through May) and Fall Hours (mid-August through October) would be Saturday and Sunday only from 9:00 A.M. to 6:00 P.M. The proposed Summer Hours (June through mid-August) would be Tuesday through Thursday 11:00 A.M. to 7:00 P.M., Friday and Saturday 9:00 A.M. to 7:00 P.M., and Sunday 10:00 A.M. to 5:00 P.M. Mr. Igo will be carrying insurance through the Paintball Business Association from Greenville, South Carolina and they utilize the Lloyds of London as their carrier. Casi stated there would be waivers each customer/player will have to sign before entering the paintball playing fields. Concessions will be offered but they will be non-perishable items such as, soda, bottled water, candy bars, chips, power drinks, power bars, etc. The Paintball Park will be an authorized dealer of all paintball supplies utilized at the park. Casi said Mr. Igo is planning on providing four different types of paintball games. They are known as Capture the Flag, Center Flag, Speedball, and Scenario Games. Casi noted typically two teams play in each game and the object of the game is to capture your opponent's flag while defending your own. Players are "tagged" out when shot with a paintball through specially designed air guns referred to as "paintball markers". The paintballs are round gelatin capsules filled with a non-caustic and water-soluble fill so they will dissolve over a period of time. The paint within the paintball is easily washed away with soap and water. Casi explained Carbon Dioxide (CO₂), Nitrogen (N₂), and/or Compressed Air power the "paintball markers". There are three different types of paintball markers, they are pump-action, semi-automatic, and fully automatic. Mr. Igo will have a safety limit on the speed a marker will shoot a paintball. That safety limit will be 300 feet per second (fps) or a distance of about 50 yards. Paintball Markers are only capable of shooting paintballs. Mr. Igo has created several safety measures for the park already. Those measures are: 1) Full face masks are required while on playing field at all times; 2) Barrel Plugs will be kept in barrels when not on playing field; 3) For every 10 players there will be 1 clearly marked referee carrying a two way radio in contact with the check-in station; 4) There will be a cordless handset phone at the check-in station at all times for emergency calls; 5) Hoffman's Ditch will be clearly marked and discussed in the safety briefing, since the ditch will separate the two open fields; 6) All players must be at least 10 years of age to play; 7) 10 to 12 year old players will have their paintball markers turned down to 200 fps and the maximum for everyone over the age of 12 will be 285 fps; 8) All minor players will need to have parental/guardian consent on the waiver and a call will be made to the parent/guardian for verification, the waivers will be kept on file for 1 year; 9) The rules will be posted at the check-in station and all new players will have a safety briefing prior to play, registration cards will be signed to verify the player has gone through the safety briefing; 10) There will be no alcohol or drugs permitted in the park; 11) Smoking is permitted in the designated smoking areas only, there will be no smoking on the playing fields; 12) No one can be shot from closer than 15 feet; 13) Shooting at wildlife will not be permitted; 14) Shooting anything out of the playing field or at the net will not be permitted; 15) All players must stay at least 3 feet away from the netting at all times; and 16) All players must stay within boundaries at all times. Casi noted there would be a 12 and 8 foot tall netting which will encompass the paintball play area near adjoining homes. Obvious boundary tape will designate the park area. Casi said at 15 feet away, no part of the shell from the paintball larger than a 3 to 5 millimeter rectangle may pass through the netting. The netting will be tested once per month for weakness and has the capability of being rolled up and lowered while fields are not in use or during off season. Casi stated a chronograph machine would be utilized to test the paintball markers speed prior to entrance onto the playing fields. Casi presented a picture of what the proposed check-in station would look like (see attachment B). Casi showed the Board members what Mr. Igo's proposed paintball park would look like from an aerial view (see attachment C). Attachment D is an overall park layout created by Mr. Igo. Attachment E shows where the boundary tape will be located as well as the netting, so it will be very clear where the players should and should not be located. Attachment F is a map indicating where Mr. Igo will be placing posted signs throughout the playing fields. Casi stated Mr. Igo's future park plans include setting up charcoal grills for customers to bring their own supplies to cook and additional insurance must be acquired prior to installation of the grills; having a game with paintball balloons which would be filled with paint instead of water like water balloons; setting up a website for the paintball park; creating a Pro Shop for the paintball park; and if the park does well and is getting bigger they will relocate to a larger park area. Casi noted that Mr. Igo has discussed the paintball park with both of his closest neighbors to the north and south of his property and neither had a major problem with the park being located on

FULTON COUNTY BOARD OF ZONING APPEALS
APRIL 14, 2004

his property. Mr. Igo has told the neighbor to the north if he feels uncomfortable with the location of the Speedball Fields then he would relocate them.

The Plan Director feels Mr. Igo has developed a very thorough and consistent business plan. Mr. Igo has identified concerns of the adjacent property owners and has attempted to address each concern. Casi stated that she did not receive any phone calls or correspondence in favor or opposing the petition. Casi feels this business would provide some added economic value to the town merchants of the Town of Akron. Casi said she would like to see the possible condition that Mr. Igo must renew his Special Exception at least one year from his public hearing date in order for the Board to check on the park's status.

Chairperson, Mark Martens, asked if there was any further information Mr. Igo would like to add to the Plan Director's presentation.

Bruce Igo said he has the consent forms and waivers because he does not want anyone to get injured while playing at his park. Bruce said he had contacted Mr. Richard Rogers (the neighbor to the north) about the proposed Paintball Park and he had no problems with it. Bruce told Mr. Rogers if he were uncomfortable with the speedball fields being located near his property he would move them to another location. Bruce said Mr. David Kruger (the neighbor to the south) did not have any problems with the proposed Paintball Park other than he wanted to know if there would be night games held on the property. Bruce said at the time being there are no night games planned but if they did have night games there would not be an immense amount of lighting needed. Bruce explained during night games, players wear light sticks on their helmets, the psi on their paintball markers are turned down, and any illumination provided would be like a shop light with a 100 watt bulb in it. Bruce stated there is a Paintball Park between Silver Lake and Warsaw called Rat City. Bruce indicated his Paintball Park would not look like Rat City because he sees that park as a danger due to all of the barrels lying around. All of the materials Bruce is planning on utilizing for his park will be removable at the end of the season except for the 12 foot posts driven into the ground for the netting. Bruce said he plans on being at this location for at the most three to five years and then he would like to relocate his Paintball Park somewhere in the county. Bruce stated all players must go through the check-in station and the chronograph machine before entering the playing field. If anyone is caught turning up his or her psi on their paintball markers after passing through the chronograph machine, they will immediately be asked to leave the playing field; the second time the player will be asked not to return to the park. Bruce also stated anyone who trespasses onto the neighboring properties will be removed from the park and asked not to return.

Mark Martens then asked for any Board member questions to the staff or the petitioner.

Steve Furnivall asked if the netting was going to go around the whole perimeter of the Paintball Park. Bruce Igo said no the whole perimeter would not be netted. Bruce explained there would be no netting on the back portion (or east end) of the property due to their being no homes located in that area. He further explained the netting would be located at the north and south ends of the property just enough to prevent the paintballs from hitting the neighboring homes. There is a woods located at the north end of the property and Mr. Igo is afraid if he erects the netting any further down the south property line then a tree may fall on the netting and ruin it. Mr. Igo explained the netting is very expensive and costs over \$300 for a 12 foot by 3 foot section. The netting on the south side of the property would be run approximately 150 yards beyond Mr. Kruger's dwelling.

Mark Martens asked what the distance was between Mr. Igo's property line and the netting (boundary line). Mr. Igo stated the netting would set 20 feet off of the property line inside of the park. He also said even if the players go outside of the boundary line they would still be on his property.

Mark Martens asked what the targeted age group of players would be. Mr. Igo said anywhere from the ages of 14 to 45. Mark asked what age group did he intend to see the most at the Paintball Park. Mr. Igo said 14 to 21 years of age.

Mark Martens asked if Mr. Igo had been in contact with the Town of Akron regarding the Paintball Park and if he was expecting foot traffic. Mr. Igo said there would be some possible foot traffic from the local children but he thought most of his customers would arrive by vehicles or possibly bicycles. Mark Martens voiced concern

FULTON COUNTY BOARD OF ZONING APPEALS

APRIL 14, 2004

about children walking and riding their bikes to the facility. Mark said he would like to see warning signs placed near the facility stating slow children at play. Mr. Igo said he has not contacted anyone regarding warning signs but he will if that is a concern of the Board.

Mark Martens asked how the referees would be communicating with the players to let them know that they are out or should leave the game. Mr. Igo explained all referees would be wearing orange vests and has a 150-decibel whistle, which they can blow to stop the play of a game at any time they feel necessary. Mr. Igo's partner explained the communication between the referees and the players. All players will have to go through a safety briefing before entering the playing field for their first time. During the safety briefing all players will be told that the referees have whistle and anytime you hear that whistle play automatically stops on all fields. At that time all players must insert their barrel plugs into the barrel of their paintball markers and stand up so that they can be seen. Any time a referee sees any unsafe or illegal actions taking place during a game he will blow the whistle and go talk to the person creating these unsafe or illegal actions. The individual creating the unsafe or illegal actions will be told what they are doing wrong and told not to do it again, at that time the referee can decide whether to resume play of the game or end the game if they want. If the individual does not stop their unsafe or illegal action after the first warning they will be asked to leave the Paintball Park.

Mark Martens asked if the paint in the paintballs was biodegradable. Mr. Igo stated the paintballs are filled with nothing other than paint and the paint inside is biodegradable. Mark asked how long it took for the gelatin casing of the paintball to disappear. Mr. Igo said it depends on how much rainfall there is after the time of play is over. Normally if there is good rainfall the casings will disappear within a week.

Mark asked if the players were injured or had bruises from the paintballs hitting them. Mr. Igo explained at times your adrenaline is pumping so hard you do not even realize you have been hit. At the most when hit with a paintball a person may feel a slight sting and have a red mark or possible welt which will go away within hours after appearing. If a person is shot from a close range (closer than 15 feet) it may break the skin.

Mark asked Mr. Igo to explain the Speedball Field and the games that would take place there. Mr. Igo said as of now the Speedball Fields will be running east to west on the property but if Mr. Rogers does not approve of that then they will be switched around so that they run north and south. Mr. Igo said the regulation size for a Speedball Court or Field is 50 feet by 100 feet. There is a flag at each end of the court/field and the teams are made of seven players. Mr. Igo stated the game normally lasts for 10 minutes and is a very fast intense game. Mr. Igo explained speedball is exactly like Capture the Flag but it is on a smaller intense scale where there is a time limit. Mark asked if running the Speedball Field north and south would make it more likely for paintballs to travel into Mr. Rogers' property. Mr. Igo said no it would make the fields farther away from Mr. Rogers' property than they would be if he ran them east to west. With running the fields north to south it would put Mr. Rogers' deck approximately 170 yards away. Mr. Igo noted none of the flags would be placed next to the netting so there should be no reason for paintballs to land on anyone else's property.

Dan Walsh asked how far a paintball would go with a cranked up paintball marker. Mr. Igo said about 150 feet or a little over 50 yards. Mr. Igo explained the players would have to be carrying an Allen wrench with them to be able to crank up their paintball markers after they have gone through the chronograph machine. Mr. Igo also stated a referee can normally tell when a paintball marker has been cranked up beyond the legal limit just by the sound of the shot. If the referee suspects a player has cranked up their paintball marker they have the right to tell them to leave the playing field and can re-test their marker at the chronograph machine if they wish. If the player has cranked up their marker and this is their first warning they will be asked to leave the Paintball Park for the remainder of that day. If the player cranks up their marker again and is caught they will be asked not to return to the Paintball Park ever again.

Dan Walsh asked if Mr. Igo was planning on having tournaments at the Paintball Park. Mr. Igo said he was thinking about having tournaments every last Sunday of the month with some local teams if he can get enough people to sign up for it.

Mark Martens asked how often there were infractions during a game where play had to be stopped. Mr. Igo's partner stated there has only been one game, which he had to completely stop and that was due to an

FULTON COUNTY BOARD OF ZONING APPEALS

APRIL 14, 2004

individual who was cussing on the playing field. Mr. Igo's partner asked the player to leave the field due to his behavior and the player did so. Normally the players know as soon as they are hit with a paintball that they are out and they leave the playing field as they were told to do during the safety briefing. Mr. Igo's partner said every once in a while you will have a player that forgets to put in their barrel plug or lifts up their face mask to get some air and when the referee sees that he will blow the whistle ask the individual to insert their barrel plug or put their face mask down. If the player is caught lifting their face mask up again they will be asked to leave the field and the referee watches that player leave the field before play resumes.

Mark Martens asked for any further questions from the Board members to the staff or petitioner. Being none, he entertained a motion to open the public hearing.

Dan Walsh moved to open the public hearing. Lind Herd seconded the motion. Motion carried as follows: Dan Walsh, Linda Herd, Steve Furnivall, and Mark Martens being in favor and no one opposing.

Mark Martens then asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing.

Shannon Igo, 1760 S St Rd 19 Akron, said she and her husband had contacted several of the neighbors about the proposed Paintball Park and they were all going to come in support of the petition but could not due to the sudden death of one of their neighbors. The viewing was scheduled for the same night as the hearing. Shannon stated that she had talked to some of the local businesses within the Town of Akron and they too were excited about the Paintball Park because they feel if it is approved it will bring more business to Akron.

Mark Martens asked for any further comments in favor of the petition. Being none, he asked for those opposing the petition to please rise and state their name, address, and reason for attending the public hearing. Being none, Mark asked if there was any rebuttal from Mr. Igo.

Mr. Igo said he does work for the recruiting office in the Indiana National Guard but he will not be utilizing his site as a training facility for his recruiters. Mr. Igo stated there is not much for young adults to do in the Town of Akron, so his park would be something the whole family could come out and enjoy. He said his park would promote physical fitness, leadership skills, and gun safety.

Being no further comments Mark Martens entertained a motion to close the public hearing. Dan Walsh moved to close the public hearing. Linda Herd seconded the motion. Motion carried as follows: Dan Walsh, Linda Herd, Steve Furnivall, and Mark Martens being in favor and no one opposing.

Mark Martens entertained Board discussion regarding the petition.

Mark stated his concern was with the foot and bicycle traffic along State Road 19. He felt that warning signs from the Indiana Department of Transportation should be pursued.

Steve Furnivall voiced concern about alcohol being present at the time players are allowed to bring in their own coolers for cookouts on the charcoal grills. Mr. Igo's partner stated most of the time you can smell alcohol on a player as soon as they walk past you and at that time you ask them if they have been drinking. If the player has been drinking the referee can deny that person the right to play. Mr. Igo's partner said most paintball players would not want to play when they have been drinking. He further stated nine times out of ten a player who has not been drinking will turn in other players for drinking if the suspect it because they do not want anyone to get injured due to someone else's lack of responsibility. Steve explained it might be easier for Mr. Igo to police if it was a stated condition that placed on his approval that no alcohol was allowed on the premises during hours of operation of the Paintball Park. Mr. Igo said that would be fine with him if the Board wanted to add that condition to his approval.

There was some Board discussion regarding the possibility of night games and when the park should close. The Board consensus was to limit the amount of night games allowed in one month and to have the park close one half hour prior to dusk during the regular hours of operation allowing those players on foot and bicycle time to get

FULTON COUNTY BOARD OF ZONING APPEALS

APRIL 14, 2004

home before it is dark outside. With there being no further Board discussion Mark Martens asked for a motion regarding the petition.

Steve Furnivall moved to approve Docket #BZA 79-0304 Bruce Igo, requesting a Special Exception to operate a Paintball Park at, 1760 South State Road 19, Akron, IN, located in the Agricultural District (AG) with the following conditions: 1) A request be made for the placement of warning signs of children at play from the Indiana Department of Transportation (INDOT), the letter of application must be submitted to the Plan Commission Office along with any correspondence received from INDOT; 2) During normal hours of operation the park must close one half hour (30 minutes) before dusk; 3) There will be no alcohol present on site during hours of operation; 4) There will be a one year renewal for the first year of operation, being April 14, 2005; and 5) There will be a maximum of four nights in each month which can be used for night game play and the park will then close no later than 10:00 P.M. Dan Walsh seconded the motion.

The Board members then proceeded to fill out their Findings of Fact forms (see attachment labeled G). Administrative Secretary, Erica Tyler, conducted a roll call vote:

Steve Furnivall	Yea
Linda Herd	Yea
Dan Walsh	Yea
Mark Martens	Yea

The motion to approve Docket #BZA 79-0304 Bruce Igo, requesting a Special Exception to operate a Paintball Park at, 1760 South State Road 19, Akron, IN, located in the Agricultural District (AG) with the following conditions: 1) A request be made for the placement of warning signs of children at play from the Indiana Department of Transportation (INDOT), the letter of application must be submitted to the Plan Commission Office along with any correspondence received from INDOT; 2) During normal hours of operation the park must close one half hour (30 minutes) before dusk; 3) There will be no alcohol present on site during hours of operation; 4) There will be a one year renewal for the first year of operation, being April 14, 2005; and 5) There will be a maximum of four nights in each month which can be used for night game play and the park will then close no later than 10:00 P.M. passed with four votes being in favor and no one opposing.

IN RE: NEW BUSINESS

ION RAMER
SPECIAL EXCEPTION

Ion Ramer, Docket #BZA 80-0304, Special Exception. Mr. Ramer is requesting a Special Exception to operate a Farm Equipment Sales, Service, and Machine Shop on his property located at, 5744 North 675 East, Rochester, IN (see attachment H). The property consists of 1.47 acres and is located in an Agricultural District (AG). Mr. Ramer has stated that he will be constructing a new 84 foot by 60 foot building for the purpose of the business.

Plan Director, Casi Cramer, noted Mr. Ramer's property is located approximately 1.3 miles southeast of Talma in Newcastle Township. There is an existing dwelling on the property as well as a number of outbuildings. Mr. Ramer has plans to demolish two of the existing outbuildings in order to construct his new building for the business. Casi explained Mr. Ramer does not have intentions of placing a bathroom facility within the shop at this time but if he does decide to in the future, he must obtain the Fulton County Health Department's approval. Mr. Ramer also owns the surrounding 9.88 acres to the north and the 32.96 acres to the south and west of the property in question. Casi explained Mr. Ramer would utilize the machine shop to build the parts needed for servicing the farm equipment, while occasionally selling equipment he may obtain and repair to working condition. The machine shop

FULTON COUNTY BOARD OF ZONING APPEALS

APRIL 14, 2004

would include such activities as welding, utilizing a lathe, and making parts for tractors or fill in work. Mr. Ramer would like to work on machinery such as excavators, tractors, and loaders. Casi said Mr. Ramer may have up to six employees in the future but for the first year the employees would consist of himself and some of his family members. Mr. Ramer would like to have his business open Monday through Sunday, 5:00 A.M. to 10:00 P.M., as well as available 24 hours a day for emergency situations. Casi noted that the property in question is listed within the Wawasee Series of soils, which consists of deep, well-drained, moderately permeable soils. The existing roadway which be utilized to get to the operation would be County Road 675 East. Casi said she does not see an overwhelming effect on the existing roadways if the Special Exception is approved. Casi stated there is an existing drive, which Mr. Ramer has stated he would be expanding to encompass the east and south sides of the newly proposed building with dustless gravel. The proposed building would be 84 feet deep and 60 feet wide making it go over Mr. Ramer's back property line. Casi explained since Mr. Ramer owns that field to the west as well he can build over his property lines if he chooses. The proposed building is planned to set more than 150 feet off of the centerline of County Road 675 East. Casi stated she had one neighboring property owner visit the Plan Commission Office and voice concern about fluid runoff into his pond. The neighbor wanted the Board to be aware that the surface water in that area runs east into his pond. The neighbor did not have a problem with the proposed operation as long as proper storage and disposal of fluids were addressed. The neighboring property with the pond is located to the east of Mr. Ramer's property (see attachment I).

Casi Cramer recommended approval of the proposed operation with the condition that the proper storage and disposal of fluids be addressed as well as any outside storage of machinery. Casi noted if approved Mr. Ramer will have to conform to Parking Standards PK-02, PK-03, PK-05 and PK-06 as well as Permanent Sign Standards SI-01 prescribed in the Fulton County Zoning Ordinance.

Chairperson, Mark Martens, asked if there was any further information Mr. Ramer would like to add to the Plan Director's presentation.

Ion Ramer said he might also make some type of woodworking machines as well as working on the machinery.

Mark Martens then asked for any Board member questions to the staff or the petitioner.

Dan Walsh asked if Mr. Ramer would be buying and selling equipment as well as repairing it. Mr. Ramer said he did not plan on purchasing equipment from a dealership to sell. He explained if someone had a piece equipment that they wanted to sell and they thought his property was a good location he would probably allow them to sell it at his shop. Mr. Ramer said he was not planning on having a full fledged dealership with more than 20 pieces of equipment sitting outside at a time.

Steve Furnivall voiced concern about the outside storage of equipment and proper disposal of petroleum and other fluids that may be utilized at the facility.

Mark Martens asked for any further questions from the Board members to the staff or petitioner. Being none, he entertained a motion to open the public hearing.

Dan Walsh moved to open the public hearing. Lind Herd seconded the motion. Motion carried as follows: Dan Walsh, Linda Herd, Steve Furnivall, and Mark Martens being in favor and no one opposing.

Mark Martens then asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing.

Ernie Hiatt, 3404 W 450 N Rochester IN, said he was in favor of the petition. He said the business would be set in a good location for the type of business they are proposing to do. Being no further comment in favor of the petition Mark Martens asked for those opposing the petition to please rise and state their name, address, and reason for attending the public hearing.

FULTON COUNTY BOARD OF ZONING APPEALS

APRIL 14, 2004

Being no further comments Mark Martens entertained a motion to close the public hearing. Dan Walsh moved to close the public hearing. Linda Herd seconded the motion. Motion carried as follows: Dan Walsh, Linda Herd, Steve Furnivall, and Mark Martens being in favor and no one opposing.

Mark Martens entertained Board discussion regarding the petition.

There was much Board discussion regarding the sales of farm equipment and outside storage. The Board consensus was that they would limit the size of the sales and service lot. If the sales and service lot was full Mr. Ramer would not be able to take in any more equipment until he got rid of some of the existing equipment on the lot.

Board discussion carried on regarding the washing area for the equipment. The Board consensus was to have Mr. Ramer pour a concrete pad sloping to the west to prevent any harmful fluids from running in to the neighboring pond to the east of the property.

With there being no further Board discussion Mark Martens asked for a motion regarding the petition.

Dan Walsh moved to approve Docket #BZA 80-0304 Ion Ramer, requesting a Special Exception to operate a Farm Equipment Sales, Service, & Machine Shop at, 5744 North 675 East, Rochester, IN, located in the Agricultural District (AG) with the following conditions: 1) The Sales & Service Lot is no larger than 12,000 square feet and 2) The Washing Area must be a concrete pad sloping to the west. Steve Furnivall seconded the motion.

The Board members then proceeded to fill out their Findings of Fact forms (see attachment labeled J). Administrative Secretary, Erica Tyler, conducted a roll call vote:

Dan Walsh	Yea
Linda Herd	Yea
Steve Furnivall	Yea
Mark Martens	Yea

The motion to approve Docket #BZA 80-0304 Ion Ramer, requesting a Special Exception to operate a Farm Equipment Sales, Service, & Machine Shop at, 5744 North 675 East, Rochester, IN, located in the Agricultural District (AG) with the following conditions: 1) The Sales & Service Lot is no larger than 12,000 square feet and 2) The Washing Area must be a concrete pad sloping to the west passed with four votes in favor and no one opposing.

IN RE: PLAN DIRECTOR REPORT

Casi Cramer presented the Board with an update of permits, applications, violations, and complaints that have occurred in the Plan Commission Office. (See attachment K)

It is duly noted that there were no Public Comments or Board Comments given at this time.

Being no further business to come in front of the Board of Zoning Appeals, Mark Martens entertained a motion to adjourn the April 14, 2004 Board of Zoning Appeals meeting. Dan Walsh moved to adjourn the April 14, 2004 Board of Zoning Appeals meeting at 9:10 P.M. Linda Herd seconded the motion. Motion carried as follows: Dan Walsh, Linda Herd, Steve Furnivall, and Mark Martens being in favor and no one opposing.

FULTON COUNTY BOARD OF ZONING APPEALS
APRIL 14, 2004

FULTON COUNTY BOARD OF ZONING APPEALS

ATTEST: _____
Erica A. Tyler, Administrative Secretary

FULTON COUNTY BOARD OF ZONING APPEALS
MAY 12, 2004

FULTON COUNTY BOARD OF ZONING APPEALS

WEDNESDAY, MAY 12, 2004

7:00 P.M.

COMMISSIONERS/COUNCIL ROOM

CALL TO ORDER

BOARD OF ZONING APPEALS MINUTES FOR:

April 14, 2004

OLD BUSINESS

NEW BUSINESS:

81-0304 Gerald Pike

PLAN DIRECTOR REPORT

PUBLIC COMMENTS

BOARD COMMENTS

ADJOURNMENT

FULTON COUNTY BOARD OF ZONING APPEALS

MAY 12, 2004

The Fulton County Board of Zoning Appeals met on Wednesday the 12th day of May 2004, at 7:00 P.M. in the Commissioners/Council Room located in the Fulton County Office Building. Chairperson, Mark Martens, called the meeting to order at 7:05 P.M. The following members were present: Chairperson, Mark Martens; Vice Chairperson, Dan Walsh; Executive Secretary, Linda Herd; Debbie Barts and Steve Furnivall. Also in attendance were: Plan Director, Casi Cramer; Administrative Secretary, Erica Tyler; and BZA Attorney, Greg Heller.

IN RE: MINUTES

APRIL 14, 2004

Chairperson, Mark Martens, asked for any additions, deletions, or corrections to be made to the April 14, 2004 Board of Zoning Appeals minutes. Being none, Dan Walsh moved to approve the April 14, 2004 Board of Zoning Appeals minutes. Linda Herd seconded the motion. Motion carried as follows: Dan Walsh, Linda Herd, Steve Furnivall, Debbie Barts and Mark Martens being in favor and no one opposing.

It is duly noted that there was no Old Business to report at this time.

IN RE: NEW BUSINESS

GERALD PIKE
DEVELOPMENT STANDARDS VARIANCE

Gerald Pike, Docket #BZA 81-0304, Development Standards Variance. Mr. Pike is requesting a Development Standards Variance of three (3) feet for the purpose of erecting a four by eight foot (4' x 8') deck on to the south side of his existing home. Mr. Pike also is requesting a Development Standards Variance of twenty one (21) feet for the purpose of erecting a seven by twenty six foot (7' x 26') deck on the west side of the existing house. The existing home is located in an Agricultural District (AG) at 7869 Quail Creek Run, Culver, IN (see attachment A). The property consists of approximately a quarter of an acre (.24).

Plan Director, Casi Cramer, explained the AG District has a required front yard setback of forty feet (40') off of the Right of Way of a local road. Quail Creek Run has a total Right of Way of forty feet (40'); therefore Mr. Pike would have to stay a total of sixty feet (60') away from the centerline of Quail Creek Run. Mr. Pike's existing home was built prior to Zoning and sits at an angle on the lot. Casi explained the home sits approximately fifty-five feet (55') from the centerline at the north end of the home and forty-six feet (46') from the centerline at the south end of the home. Casi Cramer presented diagrams of where the decks would be located if the petition is approved. The front deck would sit, at the closest point, nineteen feet (19') off of the Right of Way of Quail Creek Run (see attachment B). This would require a twenty-one foot (21') variance at the most. The side deck would sit, at the closest point, thirty-seven feet (37') off of the Right of Way, requiring a maximum variance of three feet (3') (see attachment C). Casi stated the Board could make the petition one action by approving a maximum variance of twenty-one feet (21') off of the required front yard setback. The Plan Director recommended approval of a twenty-one foot (21') Development Standards Variance for the purpose of erecting two decks onto an existing home.

Chairperson, Mark Martens, asked if there was any further information Mr. or Mrs. Pike would like to add to the Plan Director's presentation.

Mrs. Pike said they are not planning on attaching the side deck to their portable garage as of now but they may in the future.

FULTON COUNTY BOARD OF ZONING APPEALS

MAY 12, 2004

Mark Martens then asked for any Board member questions to the staff or the petitioner. There were no Board member questions at this time. Mark noted that there was no public present other than Mr. and Mrs. Pike so he dismissed the public comment portion of the hearing.

Mark Martens entertained Board discussion regarding the petition.

Steve Furnivall said he drove past the site and he did not foresee any problems with the decks being closer to the Right of Way than what is required by the Zoning Ordinance.

Mark Martens stated the decks would compliment the house and the surrounding houses in the subdivision. With there being no further Board discussion Mark Martens asked for a motion regarding the petition.

Dan Walsh moved to approve, Docket #BZA 81-0304 Gerald Pike, requesting a Development Standards Variance of twenty one feet (21') off of the required front yard setback located in the Agricultural District (AG) at 7869 Quail Creek Run, Culver, IN. Steve Furnivall seconded the motion.

The Board members then proceeded to fill out their Findings of Fact forms (see attachment labeled D). Administrative Secretary, Erica Tyler, conducted a roll call vote:

Steve Furnivall	Yea
Linda Herd	Yea
Dan Walsh	Yea
Debbie Barts	Yea
Mark Martens	Yea

The motion to approve, Docket #BZA 81-0304 Gerald Pike, requesting a Development Standards Variance of twenty one feet (21') off of the required front yard setback located in the Agricultural District (AG) at 7869 Quail Creek Run, Culver, IN passed with five votes being in favor and no one opposing.

IN RE: PLAN DIRECTOR REPORT

Casi Cramer presented the Board with an update of permits, applications, violations, and complaints that have occurred in the Plan Commission Office. (See attachment E)

Casi noted that she had contacted the Indiana Department of Transportation (INDOT) regarding the Bruce Igo petition. The Board placed a condition on his petition that INDOT would be contacted about pedestrian signs being erected near his Paintball Park. INDOT inspected the sight and said they would be erecting some sort of pedestrian sign along State Road 19 near Mr. Igo's park soon.

It is duly noted that there were no Public Comments given at this time.

IN RE: BOARD COMMENTS

Steve Furnivall and Mark Martens both stated that they would not be able to attend the June 9, 2004 Board of Zoning Appeals meeting.

FULTON COUNTY BOARD OF ZONING APPEALS

MAY 12, 2004

Being no further business to come in front of the Board of Zoning Appeals, Mark Martens entertained a motion to adjourn the May 12, 2004 Board of Zoning Appeals meeting. Debbie Barts moved to adjourn the May 12, 2004 Fulton County Board of Zoning Appeals meeting at 7:30 P.M. Dan Walsh seconded the motion. Motion carried as follows: Debbie Barts, Dan Walsh, Linda Herd, Steve Furnivall, and Mark Martens being in favor and no one opposing.

FULTON COUNTY BOARD OF ZONING APPEALS

ATTEST: _____

Erica A. Tyler, Administrative Secretary

FULTON COUNTY BOARD OF ZONING APPEALS
JUNE 9, 2004

FULTON COUNTY BOARD OF ZONING APPEALS

WEDNESDAY, JUNE 9, 2004

**7:00 P.M.
COMMISSIONERS/COUNCIL ROOM**

CALL TO ORDER

**BOARD OF ZONING APPEALS MINUTES FOR:
May 12, 2004**

OLD BUSINESS

NEW BUSINESS:
82-0504 Harold Meiser

PLAN DIRECTOR REPORT

PUBLIC COMMENTS

BOARD COMMENTS

ADJOURNMENT

FULTON COUNTY BOARD OF ZONING APPEALS
JUNE 9, 2004

The Fulton County Board of Zoning Appeals met on Wednesday the 9th day of June 2004, at 7:00 P.M. in the Commissioners/Council Room located in the Fulton County Office Building. Vice Chairperson, Dan Walsh, called the meeting to order at 7:00 P.M. The following members were present: Vice Chairperson, Dan Walsh; Executive Secretary, Linda Herd; Debbie Barts and Steve Furnivall. Also in attendance were: Plan Director, Casi Cramer and Administrative Secretary, Erica Tyler. It is duly noted that the following were absent: Chairperson, Mark Martens and BZA Attorney, Greg Heller.

IN RE: MINUTES

MAY 12, 2004

Vice Chairperson, Dan Walsh, called for any additions, deletions, or corrections to be made to the May 12, 2004 Board of Zoning Appeals minutes. Being none, Linda Herd moved to approve the May 12, 2004 Board of Zoning Appeals minutes. Debbie Barts seconded the motion. Motion carried as follows: Linda Herd, Debbie Barts, Steve Furnivall, and Dan Walsh being in favor and no one opposing.

It is duly noted that there was no Old Business to report at this time.

IN RE: NEW BUSINESS

HAROLD MEISER
2 DEVELOPMENT STANDARD VARIANCES

Harold Meiser, Docket #BZA 82-0504, two Development Standard Variances. Mr. Meiser would like to sell his Mobile Home Park and keep the remaining land for himself. In order to do this Mr. Meiser has to meet the required standards for a Manufactured Home Park District (MP). If Mr. Meiser splits off his Mobile Home Park his remaining land will not comply with the required standards, so he must ask for a variance off of the minimum lot width and the minimum lot size requirements. Mr. Meiser's property is located at 4684 North State Road 25, Rochester, IN, and is located in an MP District.

Plan Director, Casi Cramer, explained the MP District states the minimum lot size for a manufactured home park is five acres and the minimum lot width is three hundred feet (300'). Casi said the lot that would be created on the west side, once the split occurred, did not appear to be five acres and the lot width was not at least three hundred feet (300'). She stated the west lot originally appeared this way because the Plan Commission Office has not received a survey for these lots, due to the fact Mr. Meiser's original surveyor became ill and could not finish the job. Mr. Meiser has now hired another surveyor but that surveyor has not completed the survey yet. Casi explained without the completed survey she is unsure of how much of a variance Mr. Meiser needs to ask the Board for. She recommended that the Board table this petition until the survey is complete so that they may have accurate numbers for the variances requested. Casi explained if there are not accurate numbers in place and the Board does not give Mr. Meiser a big enough variance then he will have to do the entire Public Hearing Procedure again. Casi stated all Board Members should have received a copy of a letter in opposition of this petition from Mr. and Mrs. Bliss (See attachment A).

Vice Chairperson, Dan Walsh, entertained a motion to table the petition until the survey is complete. Debbie Barts moved to table, Docket #BZA 82-0504 Harold Meiser, until the survey for the property is complete. Steve Furnivall seconded the motion. Motion carried as follows: Debbie Barts, Steve Furnivall, Linda Herd, and Dan Walsh being in favor and no one opposing.

FULTON COUNTY BOARD OF ZONING APPEALS
JUNE 9, 2004

IN RE: PLAN DIRECTOR REPORT

Casi Cramer presented the Board with an update of permits, applications, violations, and complaints that have occurred in the Plan Commission Office. (See attachment B)

It is duly noted that there were no Public Comments or Board Comments given at this time.

Being no further business to come in front of the Board of Zoning Appeals, Dan Walsh, entertained a motion to adjourn the June 9, 2004 Board of Zoning Appeals meeting. Debbie Barts moved to adjourn the June 9, 2004 Fulton County Board of Zoning Appeals meeting at 7:10 P.M. Linda Herd seconded the motion. Motion carried as follows: Debbie Barts, Linda Herd, Steve Furnivall, and Dan Walsh being in favor and no one opposing.

FULTON COUNTY BOARD OF ZONING APPEALS

ATTEST: _____
Erica A. Tyler, Administrative Secretary

FULTON COUNTY BOARD OF ZONING APPEALS
JULY 14, 2004

FULTON COUNTY BOARD OF ZONING APPEALS

WEDNESDAY, JULY 14, 2004

**7:00 P.M.
COMMISSIONERS/COUNCIL ROOM**

CALL TO ORDER

BOARD OF ZONING APPEALS MINUTES FOR:

June 9, 2004

OLD BUSINESS:

Clayton Howes 13-0301 (Renewal)
Lee & Ryan Environmental 14-0401 (Renewal)
Harold Meiser 82-0504

NEW BUSINESS:

Jennifer Sines-Goff 84-0604
David McGowen 85-0604

PLAN DIRECTOR REPORT

PUBLIC COMMENTS

BOARD COMMENTS

ADJOURNMENT

FULTON COUNTY BOARD OF ZONING APPEALS
JULY 14, 2004

The Fulton County Board of Zoning Appeals met on Wednesday the 14th day of July 2004, at 7:00 P.M. in the Commissioners/Council Room located in the Fulton County Office Building. Vice Chairperson, Dan Walsh, called the meeting to order at 7:00 P.M. The following members were present: Vice Chairperson, Dan Walsh; Executive Secretary, Linda Herd; Debbie Barts and Steve Furnivall. Also in attendance were: Plan Director, Casi Cramer; Administrative Secretary, Erica Tyler; and BZA Attorney, Greg Heller. It is duly noted that the following were absent: Chairperson, Mark Martens.

IN RE: MINUTES

JUNE 9, 2004

Vice Chairperson, Dan Walsh, called for any additions, deletions, or corrections to be made to the June 9, 2004 Board of Zoning Appeals minutes. Being none, Linda Herd moved to approve the June 9, 2004 Fulton County Board of Zoning Appeals minutes. Debbie Barts seconded the motion. Motion carried as follows: Linda Herd, Debbie Barts, Steve Furnivall, and Dan Walsh being in favor and no one opposing.

IN RE: OLD BUSINESS

CLAYTON HOWES
SPECIAL EXCEPTION RENEWAL

Clayton Howes, Docket #BZA 13-0401, Special Exception Renewal. Mr. Howes is requesting a renewal of his special exception for a temporary second dwelling unit utilized by his elderly mother. The temporary dwelling is located on Mr. Howes' property at 12556 East 300 South, Akron, IN, within the Agricultural District (AG) consisting of 5.98 acres (see attachment A).

Plan Director, Casi Cramer, stated the Board of Zoning Appeals granted Mr. Howes' special exception for the temporary second dwelling on May 9, 2001. She noted the petition was granted with conditions; those conditions were as follows: 1) Mr. Howes is required to obtain a Location Improvement Permit and a Building Permit for the placement of the mobile home; and 2) the mobile home is never used as a rental unit; and 3) the mobile home be utilized as a dwelling for no one except Mrs. Hazel Howes; and 4) the mobile home is removed after Mrs. Hazel Howes no longer utilizes it as a dwelling; and 5) the special exception is renewed every three years. Casi said Mr. Howes contacted the Plan Commission Office and stated he would not be able to attend the meeting due to working thirds at his job. However, Mr. Howes stated that his mother is still in need of the temporary dwelling and he would like to ask for a renewal on the special exception. Casi Cramer noted Mr. Howes has received the Health Department's approval for renewal of the septic system being utilized.

Vice Chairperson, Dan Walsh, asked for any Board member questions to the staff or the petitioner. There were no Board member questions at this time. Being none, he entertained a motion to open the public hearing.

Steve Furnivall moved to open the public hearing. Debbie Barts seconded the motion. Motion carried as follows: Steve Furnivall, Debbie Barts, Linda Herd, and Dan Walsh being in favor and no one opposing.

Dan Walsh then asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing. Being none, he asked those opposing the petition to do the same. Being none, Dan, entertained a motion to close the public hearing.

Debbie Barts moved to close the public hearing. Linda Herd seconded the motion. Motion carried as follows: Debbie Barts, Linda Herd, Steve Furnivall, and Dan Walsh being in favor and no one opposing.

FULTON COUNTY BOARD OF ZONING APPEALS
JULY 14, 2004

With no further Board discussion Dan Walsh asked for a motion regarding the petition. Steve Furnivall moved to approve the renewal of the special exception, on Docket #BZA 13-0401 Clayton Howes, for another three (3) years with the original conditions that were placed on the actual special exception. Debbie Barts seconded the motion. Motion carried as follows: Steve Furnivall, Debbie Barts, Linda Herd, and Dan Walsh being in favor and no one opposing.

Mr. Howes special exception will now expire on July 14, 2007. If he is still in need of the temporary second dwelling, for his mother Hazel Howes, he will have to ask the BZA for another renewal at that time.

IN RE: OLD BUSINESS

LEE & RYAN ENVIRONMENTAL
DEVELOPMENT STANDARD VARIANCES RENEWAL

Lee & Ryan Environmental, Docket #BZA 14-0401, Development Standard Variances Renewal. Lee & Ryan Environmental is requesting a renewal of its development standard variances for a temporary equipment trailer unit to be placed on Glen Smith's property at the corner of Old US 31 and 650 South, Macy, IN (see attachment B). This property is located in the General Commercial District (GC) and consists of half an acre (.5).

Plan Director, Casi Cramer, noted the Board of Zoning Appeals granted Lee & Ryan Environmental two development standard variances on May 9, 2001. She stated the petition was granted with motions as follows: Motion to accept the request of a development standard variance of the front property setback for the purpose of placing a temporary equipment trailer on a remediation site with the condition that there be a renewal done every three years; and Motion to accept the request of a development standard variance on the rear property setback for the purpose of placing a temporary equipment trailer on a remediation site with the condition that there be a renewal done every three years. Casi explained Lee & Ryan is conducting Phase I and Phase II studies on this remediation site. Lee & Ryan is still in the process of finishing those studies and would like to ask for a renewal for the temporary equipment trailer. Casi noted Daniel Koleszar from Lee & Ryan Environmental was present if the Board had any questions regarding the project.

Vice Chairperson, Dan Walsh, asked for any questions to the petitioner or staff by the Board Members.

Steve Furnivall stated he had not seen any vapors coming from the building lately and wanted to know if Lee & Ryan Environmental was still utilizing it. Daniel Koleszar, Lee & Ryan Environmental Project Manager, said the system has been off for one year and two months. He explained the State of Indiana requires that the system be off for four consecutive quarters to obtain clean data showing that there would be no rebound in the contamination levels. Daniel said they have sent a request to the State of Indiana to remove the system from the property and have heard that they are going to grant the request, but the State has had significant cutbacks in their budget, which makes the process a little slow. Daniel stated they could be pulling the system off of the site within the next week or it could be four months from now, if not longer.

Dan Walsh asked for any further questions, being none he entertained a motion to open the public hearing.

Steve Furnivall moved to open the public hearing. Debbie Barts seconded the motion. Motion carried as follows: Steve Furnivall, Debbie Barts, Linda Herd, and Dan Walsh being in favor and no one opposing.

Dan Walsh then asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing. Being none, he asked those opposing the petition to do the same. Being none, Dan, entertained a motion to close the public hearing.

FULTON COUNTY BOARD OF ZONING APPEALS
JULY 14, 2004

Debbie Barts moved to close the public hearing. Linda Herd seconded the motion. Motion carried as follows: Debbie Barts, Linda Herd, Steve Furnivall, and Dan Walsh being in favor and no one opposing.

Dan Walsh then asked for any Board discussion.

Debbie Barts asked how much time would be appropriate to give Lee & Ryan Environmental on their renewal. Daniel Koleszar said he has no way of knowing how long it will take for sure because the State could come back and say they are not comfortable with the readings yet so they want the remediation site longer. Daniel stated if the Board granted a renewal for at least another three years that should allow them plenty of time to finish everything. He also noted that he would be in contact with the Plan Commission Office as soon as the system was pulled off of the remediation site.

Dan asked for any further Board discussion, being none he entertained a motion regarding the petition.

Steve Furnivall moved to approve the renewal of the development standard variances, on Docket #BZA 14-0401, for another three (3) years. Debbie Barts seconded the motion. Motion carried as follows: Steve Furnivall, Debbie Barts, Linda Herd, and Dan Walsh being in favor and no one opposing.

Lee & Ryan Environmental's development standard variances will now expire on July 14, 2007. If they are still in need of the temporary equipment trailer unit, for the remediation site, they will have to ask the BZA for another renewal at that time.

IN RE: OLD BUSINESS

HAROLD MEISER
DEVELOPMENT STANDARD VARIANCE

Harold Meiser, Docket #BZA 82-0504, Development Standard Variance. Vice Chairperson, Dan Walsh, noted that the Board moved to table the petition until the survey was complete at the June 9, 2004 Board of Zoning Appeals meeting. Dan said it is his understanding that the survey is not complete therefore the Board does not have to take any action on the petition at this time.

IN RE: NEW BUSINESS

JENNIFER SINES-GOFF
DEVELOPMENT STANDARD VARIANCES

Jennifer Sines-Goff, Docket #BZA 84-0604, Development Standard Variances. Mrs. Sines-Goff is requesting a development standard variance of two foot (2') on the maximum height of a privacy fence, as well as, a variance for the placement of a privacy fence. The privacy fence would be located at 6590 South Sunset Boulevard, Macy, IN, and is within the Lake Residential District (R3) (see attachment C).

Plan Director, Casi Cramer, explained Mrs. Sines-Goff has a six-year old son with profound Autism, who is very adept at getting outdoors. Mrs. Sines-Goff has had the police and child-welfare called on her in the past because her son has gotten outdoors and walked away from the property. Mrs. Sines-Goff's son has been able to unlock the doors within the house, climb the existing fence, and wandered to other properties throughout the neighborhood. Casi explained once Mrs. Sines-Goff's son is outside he is very fast and hard to catch at times, therefore Mrs. Sines-Goff is asking for two variances regarding a privacy fence. She is requesting to have an eight foot (8') privacy fence which will surround the entire "yard area" except for a small graveled portion on the west side of the house. The graveled area is where Mrs. Sines-Goff and her family park their vehicles, as well as, where they work on their vehicles. Casi noted that the Fulton County Zoning Ordinance states the following about privacy fences: A privacy

FULTON COUNTY BOARD OF ZONING APPEALS

JULY 14, 2004

fence must be to the side and rear of primary structures, have a setback of two feet (2') from the property line, a maximum of six feet (6'), and is at least ninety percent (90%) opaque. Casi said there is a charitable organization that has offered to donate an eight-foot (8') privacy fence to Mrs. Sines-Goff, which would be professionally installed. The fence would be turned with the smooth side facing in making the fence harder to grip in climbing situations this providing a safe environment for Mrs. Sines-Goff's son. The charity requires the fence to be an eight foot (8') fence due the fact the child, once he gets older, would have an easier time escaping from a six foot (6') fence. Casi noted there are a total of five children in the home and Mrs. Sines-Goff's wants all of her children to have a maximum amount of space to play in safely. Casi presented two different plans for the privacy fence in question. Attachment D is the Charity's Proposed Plan, which shows a maximum of five gates and separates the backyard from the front yard. Attachment E is Mrs. Sines-Goff's Proposed Plan, which shows a maximum of two gates and encompasses the backyard with the front yard. Mrs. Sines-Goff's is concerned with emergency personnel being able to have easy access to her backyard as well as her son being able to escape from five different directions rather than two. Casi said there are no houses directly behind Mrs. Sines-Goff's house that would have their view of the lake impeded by the placement of such a fence. The property sets back a long drive off one of the channels and there is tall vegetation surrounding most of the property. Casi Cramer recommended approval of the two development standard variances.

Vice Chairperson, Dan Walsh, asked if Mrs. Sines-Goff had any further information to add to the Plan Director's Report at this time.

Jennifer Sines-Goff stated she brought her son to the meeting tonight for the perfect point in case. She said once he gets away from you he is very fast and hard to catch. Mrs. Sines-Goff feels if the fence is placed how she proposed, then it would help spare her yard and her children can play in the same area instead of being in two different areas. She also feels it would be better for her son's safety to only have two options of exiting the fenced in area rather than five. Mrs. Sines-Goff introduced her son Jordan, she stated he is six years old but has the mentality of a three year old and is non-verbal. She noted that she has an alarm system on all of the interior and exterior doors, as well as, windows so that if Jordan does escape an alarm will sound.

Dan Walsh then asked for any Board Member questions to the staff or petitioner.

Debbie Barts questioned why the charity wanted so many gates. Mrs. Sines-Goff said the charity was trying to cut down the cost of the fencing by putting up more gates. Debbie asked if the Board made it a condition to only have two gates if the charity would be willing to comply with that. Mrs. Sines-Goff said yes the charity would then only place two gates within the fencing because it is part of the requirement for the variances to be approved.

Mrs. Sines-Goff noted that her son loves water and has been found in the water before.

Dan asked for any further questions being none, he entertained a motion to open the public hearing.

Debbie Barts moved to open the public hearing. Linda Herd seconded the motion. Motion carried as follows: Debbie Barts, Linda Herd, Steve Furnivall, and Dan Walsh being in favor and no one opposing.

Dan Walsh asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing.

David Minix, stated there is eighty feet (80') of open channel directly south of Mrs. Sines-Goff's driveway. He is concerned that Mrs. Sines-Goff's son will get in the water and possibly drown if the fence is not erected. Mr. Minix also voiced concern about whether a survey had been done to find Mrs. Sines-Goff's actual property lines. Mrs. Sines-Goff said she did have a survey of her property and she has already received the Building Inspector's approval on the placement of the privacy fence off of her property lines.

Mrs. Sines-Goff said she received a letter from her son's daycare as well as from one of the neighbors stating they approved of the variances for the fence (see attachments labeled F).

Dan Walsh asked for any further comments in favor of the petition.

FULTON COUNTY BOARD OF ZONING APPEALS
JULY 14, 2004

Being none, Dan asked for those opposing the petition to please rise and state their name, address, and reason for attending the public hearing. Being none, he entertained a motion to close the public hearing.

Steve Furnivall moved to close the public hearing. Debbie Barts seconded the motion. Motion carried as follows: Steve Furnivall, Debbie Barts, Linda Herd, and Dan Walsh being in favor and no one opposing.

Dan Walsh then asked for any Board discussion.

Steve Furnivall said he did not have a problem with the privacy fence, but he did not like the charity's idea of having five different gates. There was some Board discussion on the number of gates that should be within the fence and what the Board members felt would be a safe amount.

Steve Furnivall asked if the Board wanted to make the privacy fence a permanent structure or if they wanted to have a renewal process on the fence. There was some Board discussion regarding a renewal process but there was a consensus that it would not be necessary to have a renewal on the privacy fence.

Debbie Barts stated that she liked Mrs. Sines-Goff's proposed plan better than the charity's, she felt that five gates within the fence was unsafe. Debbie said if there are only two gates there is less of a chance for Mrs. Sines-Goff's son to escape the yard. Linda Herd added with only two gates there is also less of a chance of one of the other four children accidentally leaving a gate open.

Dan asked for any further Board discussion. Being none, he entertained a motion regarding the petition.

Debbie Barts moved to approve, Docket #BZA 84-0604 Jennifer Sines-Goff, requesting a Development Standard Variance of two feet (2') off of the regulated six foot (6') maximum height for a privacy fence, as well as, a variance for the placement of the fence located in the Lake Residential District (R3) at 6590 S Sunset Blvd, Macy, IN, with the condition that the privacy fence meets the Board's proposed plan, as attached, with a maximum of two gates. Steve Furnivall seconded the motion.

There was some discussion as to whether the motion should say two feet off of the regulated six-foot maximum or if it should be two feet on or higher than the maximum. The Board discussed the situation and came to a consensus that it should be two feet of the regulated six-foot maximum.

Steve Furnivall then moved to amend the motion to the following: Approve, Docket #BZA 84-0604 Jennifer Sines-Goff, requesting a Development Standard Variance of two feet (2') of the regulated six foot (6') maximum height for a privacy fence, as well as, a variance for the placement of the fence, located in the Lake Residential District (R3) at 6590 S Sunset Blvd, Macy, IN, with the condition that the privacy fence meets the Board's proposed plan, as attached, with a maximum of two gates. Debbie Barts seconded the amendment to the motion. Amendment passed as follows: Steve Furnivall, Debbie Barts, Linda Herd, and Dan Walsh being in favor and no one opposing.

The Board members then proceeded to fill out their Findings of Fact Forms (attachments labeled G). The Administrative Secretary, Erica Tyler, conducted a roll call vote:

Debbie Barts	Yea
Steve Furnivall	Yea
Linda Herd	Yea
Dan Walsh	Yea

The motion to approve, Docket #BZA 84-0604 Jennifer Sines-Goff, requesting a Development Standard Variance of two feet (2') of the regulated six foot (6') maximum height for a privacy fence, as well as, a variance for the placement of the fence, located in the Lake Residential District (R3) at 6590 S Sunset Blvd, Macy, IN, with the

FULTON COUNTY BOARD OF ZONING APPEALS
JULY 14, 2004

condition that the privacy fence meets the Board's proposed plan, as attached, with a maximum of two gates passed with four being in favor and no one opposing.

IN RE: NEW BUSINESS

DAVID MCGOWEN
DEVELOPMENT STANDARD VARIANCE

David McGowen, Docket #BZA 85-0604, Development Standard Variance. Mr. McGowen is requesting a development standard variance of twenty-two and one half feet (22.5') off of the required front yard setback. Mr. McGowen's property is located within the Agricultural District (AG) at 6317 East 775 North, Rochester, IN (see attachment H). The property consists of forty (40) acres.

Plan Director, Casi Cramer, explained Mr. McGowen is requesting a variance for the purpose of erecting a covered porch onto the front of his existing home, as well as, a building addition on the east side of the existing home. The AG District has a required front yard setback of forty feet (40') off of the Right of Way of any County Road. Casi said County Road 775 North has a total Right of Way of thirty-three feet (33'); therefore Mr. McGowen would have to stay a total of fifty-six and one half feet (56.5') off of the centerline of County Road 775 North. Casi noted the existing home was built prior to Zoning and currently sits approximately forty-six feet (46') from the centerline of 775 North. She explained the proposed porch steps would set approximately thirty-four feet (34') from the centerline of 775 North or seventeen and one half feet (17.5') off of the Right of Way. The actual porch would set approximately thirty-eight feet (38') from the centerline of 775 North or twenty-one and one half feet (21.5') off of the Right of Way (see attachment I). Casi said the actual proposed porch would set back farther from the road than the current existing porch, the only thing that might be closer is the stairs leading up to the porch. Casi Cramer recommended approval of the development standard variance.

Vice Chairperson, Dan Walsh, asked if Mr. McGowen had any further information to add to the Plan Director's Report at this time.

David McGowen stated the home had been in his family for 115 years. He said he would rather the house be down a long lane but that is where his relatives decided to build it 115 years ago. Mr. McGowen explained he wants to dress the home up a little more than it currently is.

Dan Walsh then asked for any Board Member questions to the staff or petitioner. Being none, he entertained a motion to open the public hearing.

Debbie Barts moved to open the public hearing. Linda Herd seconded the motion. Motion carried as follows: Debbie Barts, Linda Herd, Steve Furnivall, and Dan Walsh being in favor and no one opposing.

Dan Walsh asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing. Being none, he asked for those opposing the petition to do the same. Being none, Dan entertained a motion to close the public hearing.

Debbie Barts moved to close the public hearing. Linda Herd seconded the motion. Motion carried as follows: Debbie Barts, Linda Herd, Steve Furnivall, and Dan Walsh being in favor and no one opposing.

Dan Walsh then asked for any Board discussion. Being none, he entertained a motion regarding the petition.

FULTON COUNTY BOARD OF ZONING APPEALS
JULY 14, 2004

Steve Furnivall moved to approve, Docket #BZA 85-0604 David McGowen, requesting a Development Standards Variance of twenty two and one half feet (22.5') off of the required front yard setback, the property is located in an Agricultural District (AG) at 6317 E 775 N, Rochester, IN. Debbie Barts seconded the motion.

The Board members then proceeded to fill out their Findings of Fact Forms (attachments labeled J). The Administrative Secretary, Erica Tyler, conducted a roll call vote:

Debbie Barts	Yea
Steve Furnivall	Yea
Linda Herd	Yea
Dan Walsh	Yea

The motion to approve, Docket #BZA 85-0604 David McGowen, requesting a Development Standards Variance of twenty two and one half feet (22.5') off of the required front yard setback, the property is located in an Agricultural District (AG) at 6317 E 775 N, Rochester, IN passed with four votes being in favor and no one opposing.

IN RE: PLAN DIRECTOR REPORT

Casi Cramer presented the Board with an update of permits, applications, violations, and complaints that have occurred in the Plan Commission Office. (See attachment K)

It is duly noted that there were no Public Comments or Board Comments given at this time.

Being no further business to come in front of the Board of Zoning Appeals, Dan Walsh, entertained a motion to adjourn the July 14, 2004 Board of Zoning Appeals meeting. Debbie Barts moved to adjourn the July 14, 2004 Fulton County Board of Zoning Appeals meeting at 8:15 p.m. Linda Herd seconded the motion. Motion carried as follows: Debbie Barts, Linda Herd, Steve Furnivall and Dan Walsh being in favor and no one opposing.

FULTON COUNTY BOARD OF ZONING APPEALS

ATTEST: _____
Erica A. Tyler, Administrative Secretary

**FULTON COUNTY
BOARD OF ZONING APPEALS**

WEDNESDAY, AUGUST 11, 2004

**7:00 P.M.
COMMISSIONERS/COUNCIL ROOM**

CALL TO ORDER

**BOARD OF ZONING APPEALS MINUTES FOR:
July 14, 2004**

OLD BUSINESS:

Nellie Knicker 21-0701 Renewal
Dave Smith 67-0703 Update
Harold Meiser 82-0504

NEW BUSINESS:

G. Robert Franks 86-0704
Nyona South Mud Lake Conservancy 87-0704

PLAN DIRECTOR REPORT

PUBLIC COMMENTS

BOARD COMMENTS

ADJOURNMENT

FULTON COUNTY BOARD OF ZONING APPEALS
AUGUST 11, 2004

The Fulton County Board of Zoning Appeals met on Wednesday the 11th day of August 2004, at 7:00 P.M. in the Commissioners/Council Room located in the Fulton County Office Building. Chairperson, Mark Martens, called the meeting to order at 7:08 p.m. The following members were present: Chairperson, Mark Martens; Executive Secretary, Linda Herd; Debbie Barts; and Steve Furnivall. Also in attendance were: Plan Director, Casi Cramer; Administrative Secretary, Erica Tyler; and BZA Attorney, Greg Heller. It is duly noted that Vice Chairperson, Dan Walsh, was absent.

IN RE: MINUTES

JULY 14, 2004

Chairperson, Mark Martens, asked for any additions, deletions, or corrections to be made to the July 14, 2004, Board of Zoning Appeals minutes. Being none, Steve Furnivall moved to approve the July 14, 2004, Fulton County Board of Zoning Appeals minutes. Debbie Barts seconded the motion. Motion carried as follows: Steve Furnivall, Debbie Barts, Linda Herd, and Mark Martens being in favor and no one opposing.

IN RE: OLD BUSINESS

NELLIE KNICKER
SPECIAL EXCEPTION RENEWAL

Nellie Knicker, Docket #BZA 21-0701, Special Exception Renewal. Mrs. Knicker is requesting a renewal of her special exception for a temporary second dwelling unit utilized by her daughter Betty Hickle. The temporary second dwelling is located on Mrs. Knicker's property at 1737 South State Road 17, Kewanna, IN, within the Agricultural District (AG). The property consists of forty (40) acres (see attachment A).

Plan Director, Casi Cramer, stated the Board of Zoning Appeals granted Mrs. Knicker's special exception for the temporary second dwelling on August 8, 2004. She noted the petition was granted with conditions; those conditions were as follows: 1) Mrs. Hickle is required to adhere to all of the County Ordinances pertaining to the placement of the mobile home; and 2) the mobile home is never utilized as a rental unit; and 3) the mobile home be utilized as a dwelling for no one except Mrs. Hickle and her immediate family; and 4) the mobile home is removed after Mrs. Nellie H. Knicker is no longer in need of Mrs. Hickle's care; and 5) the special exception is renewable every 3 years. Casi Cramer noted that Mrs. Hickle was present and could give the Board an update on the situation.

Betty Hickle, representing her mother Nellie Knicker, asked what would need to be done so that she would not need to come back to the Board for a renewal in another three years. Chairperson, Mark Martens, said the temporary second dwelling was only granted for Mrs. Hickle's use as long as her mother needed her help medically. Once Mrs. Knicker no longer needs Mrs. Hickle's help the mobile home will have to be removed from Mrs. Knicker's property. Mrs. Hickle questioned what she would need to do if she wanted to keep the temporary home on her mother's property permanently. Plan Director, Casi Cramer, explained the County Ordinance states there can only be one dwelling per tract of land. Therefore, Mrs. Knicker would have to survey off a piece of her forty (40) acres for Mrs. Hickle's now temporary home to set on, so that both homes were located on separate tracts of land. Mrs. Hickle asked if her mother split off a piece of her forty (40) acres for the mobile home to set on, if her mother could ever sell more land for people to potentially build a home on. Casi Cramer explained Mrs. Knicker would have the ability to split more acreage for homes but she would have to go through the Subdivision Procedure. Mrs. Hickle stated at this time she would ask the Board to give her mother another 3 year renewal for the temporary home.

FULTON COUNTY BOARD OF ZONING APPEALS
AUGUST 11, 2004

Chairperson, Mark Martens, asked for any Board member questions to the staff or the petitioner. There were no Board member questions at this time. Being none, he entertained a motion to open the public hearing.

Debbie Barts moved to open the public hearing. Linda Herd seconded the motion. Motion carried as follows: Debbie Barts, Linda Herd, Steve Furnivall, and Mark Martens being in favor and no one opposing.

Mark Martens then asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing. Being none, he asked those opposing the petition to do the same. Being none, Mark, entertained a motion to close the public hearing.

Steve Furnivall moved to close the public hearing. Debbie Barts seconded the motion. Motion carried as follows: Steve Furnivall, Debbie Barts, Linda Herd, and Mark Martens being in favor and no one opposing.

With no further Board discussion Mark Martens asked for a motion regarding the petition. Steve Furnivall moved to approve the renewal of the special exception, on Docket #BZA 21-0701 Nellie Knicker, for a temporary second dwelling located at 1737 South State Road 17, Kewanna, IN, for another three (3) years. Debbie Barts seconded the motion.

Linda Herd questioned if the motion should include the same conditions as the original petition. The Board consensus was that it should. Steve Furnivall revised his motion.

Steve Furnivall moved to approve the renewal of the special exception, on Docket #BZA 21-0701 Nellie Knicker, for a temporary second dwelling located at 1737 South State Road 17, Kewanna, IN, for another three (3) years with the original conditions that were placed on the actual special exception. Debbie Barts seconded the motion. Motion carried as follows: Steve Furnivall, Debbie Barts, Linda Herd, and Mark Martens being in favor and no one opposing.

Mrs. Knicker's special exception will now expire on August 11, 2007. If she is still in need of the temporary second dwelling, for her daughter Betty Hickle, she will have to ask the BZA for another renewal at that time.

IN RE: OLD BUSINESS

DAVE SMITH
SPECIAL EXCEPTION UPDATE

Dave Smith, Docket #BZA 67-0703, Special Exception Update. Mr. Smith was granted a special exception for a temporary second dwelling placed on his sister's property, Tonia Marshall, at the September 10, 2003, Board of Zoning Appeals meeting. Mrs. Marshall's property is located in an Agricultural District (AG) at 7346 East 200 North, Akron, IN. The property consists of twenty-one (21) acres.

Plan Director, Casi Cramer, explained Mr. Smith's request for the temporary second dwelling originated from the family's care and concern for his mother. Mr. Smith's mother was in need of assisted living due to physical medical conditions. Casi stated Mr. Smith prior to his request had been living in Logansport, IN, and was traveling back and forth to help his sister care for their mother. Mrs. Marshall and her children lived with their mother in the existing home located on the property. Mr. Smith moved a 14'x70' mobile home onto the eastern side of Mrs. Marshall's property and met the regulations stipulated by the Fulton County Zoning Ordinance, the Fulton County Building Code, and the Fulton County Health Department. Casi Cramer noted Mr. Smith's mother, Ms. Bonnie Marshall, passed away on March 19th, 2004, so Mr. Smith was asked to attend tonight's meeting in order to update the Board on the events to date. Casi stated at one time Mr. Smith had said he would like for his sister to split off

FULTON COUNTY BOARD OF ZONING APPEALS
AUGUST 11, 2004

part of her property so he could place his home on that parcel permanently. Casi said Mr. Smith was present and could give the Board an update on the situation.

Dave Smith said his intentions are to have a piece of his sister's property split off to him so that he can place his mobile home on that piece permanently. He explained he would meet all required regulations as well.

Chairperson, Mark Martens, asked for any Board member questions to the staff or the petitioner.

Steve Furnivall asked when Mr. Smith was planning on having the split done. Mr. Smith said he was hoping within the next sixty (60) days, but he was unsure due to the surveyor's schedule.

Steve Furnivall questioned if the mobile home meet all Ordinance requirements. Casi Cramer said the mobile home did in fact meet all Ordinance requirements. Steve commented that he did not see any skirting on the mobile home. Mr. Smith stated the skirting was not on yet, due to the fact he had just recently moved the mobile home. Casi Cramer explained Mr. Smith came in to obtain his Location Improvement Permit on December 17th, 2003, but he did not move the home onto the property until a few months later. Mr. Smith said Casi was correct and he would put skirting on his mobile home as soon as possible.

There was Board discussion as to how long of a time period they should give Mr. Smith to have the land split, recorded, and the mobile home skirted. It was the Board consensus that a deed be recorded, a survey conducted, and the mobile home skirted within the next one hundred and twenty (120) days.

Mark Martens asked for any further Board member questions. Being none, he entertained a motion to open the public hearing.

Debbie Barts moved to open the public hearing. Linda Herd seconded the motion. Motion carried as follows: Debbie Barts, Linda Herd, Steve Furnivall, and Mark Martens being in favor and no one opposing.

Mark Martens then asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing. Being none, he asked those opposing the petition to do the same. Being none, Mark, entertained a motion to close the public hearing.

Debbie Barts moved to close the public hearing. Steve Furnivall seconded the motion. Motion carried as follows: Debbie Barts, Steve Furnivall, Linda Herd, and Mark Martens being in favor and no one opposing.

With no further Board discussion Mark Martens asked for a motion regarding the petition. Steve Furnivall moved to give an extension for the special exception, on Docket #BZA 67-0703 Dave Smith, the extension will be for one hundred and twenty days (120), at the end of the one hundred and twenty days (120) the property must be split and recorded as a separate tract of land and all Fulton County Zoning Ordinances must be met. Motion carried as follows: Steve Furnivall, Debbie Barts, Linda Herd, and Mark Martens being in favor and no one opposing.

Mr. Smith now has until December 20, 2004, to have the property split, recorded, and the mobile home in complete compliance with all County Ordinances.

IN RE: OLD BUSINESS

HAROLD MEISER
DEVELOPMENT STANDARD VARIANCE

Harold Meiser, Docket #BZA 82-0504, Development Standard Variance. Mr. Meiser would like to sell his Mobile Home Park and keep the remaining land for himself. In order to do this Mr. Meiser has to meet the required standards for a Manufactured Home Park District (MP). If Mr. Meiser splits off his Mobile Home Park his remaining land will not comply with the required standards, so he must ask for a variance off of the minimum lot

FULTON COUNTY BOARD OF ZONING APPEALS
AUGUST 11, 2004

width requirement. Mr. Meiser's property is located at 4684 North State Road 25, Rochester, IN, and is located in an MP District (see attachment C). The property consists of 12.43 acres.

Plan Director, Casi Cramer, noted that the Board of Zoning Appeals tabled Mr. Meiser's petition on June 9th, 2004, until the survey for the property in question was complete. Casi stated when this petition first came about she thought they would also need to ask for a development standard variance from the minimum lot area, due to the fact the tax assessment card for Mr. Meiser said his property consisted of 9.58 acres. After a survey of the land was conducted, it was found that Mr. Meiser's property actually contained 12.43 acres. Casi explained if the property only consisted of 9.58 acres then neither tract of land would meet the minimum lot area for an MP District, which is 5 acres. Now that both tracts equal more than 5 acres Mr. Meiser will not have to ask for a variance from the lot area. Casi explained Mr. Meiser would like to split this tract for the purpose of selling the grandfathered mobile home park, as well as, maintaining the ability to subdivide the remaining acreage for the construction of dwellings in the future (see attachment D). Casi said Mr. Meiser would need a variance for the lot width on the remaining acreage he is planning on keeping for later development since it only has a width of thirty-five feet (35') on State Road 25. Therefore, Mr. Meiser is requesting a development standard variance of approximately two hundred and sixty five feet (265') off of the required minimum lot width of three hundred feet (300'). Casi noted there has been discussion about placing an easement within the grandfathered mobile home park so that the existing lots along the Tippecanoe River to allow access to State Road 25. Casi explained these lots are all individually owned and they have always been allowed access through the existing grandfathered mobile home park by Mr. Meiser. Casi said she would recommend if the variance were granted that the Board require an easement be placed within the grandfathered mobile home park to allow those lots access to the road. Casi stated her understanding of the three hundred foot (300') minimum lot width standard in the MP District is for emergency situations. For example, if there were an accident blocking the thirty-five foot entrance to this tract and there was a newly constructed mobile home park on it, how would access be gained to the people living there if an emergency occurred within the park? Casi does not feel the remaining 7.27 acres would be safe for a mobile home park development with a thirty-five foot entrance. Casi further noted the difficulty Mr. Meiser may have in trying to develop that remaining acreage due to the fact it may lay within the floodplain.

Chairperson, Mark Martens, asked for any Board member questions to the staff or the petitioner.

Steve Furnivall stated with receiving the survey no sooner than Monday and the meeting being on Wednesday he did not feel as if he had adequate time to review the survey and the petition. He also said he noticed from the aerial view of the grandfathered mobile home park that the proposed thirty foot ingress-egress easement went through the back of some of the existing mobile homes. BZA Attorney, Greg Heller, stated if the easement went through some of the homes then the Board should definitely be concerned with that. Casi Cramer noted that the people who own the lots on the river do not utilize the easement, they currently and have always utilized the existing driveway into the grandfathered mobile home park. Steve Furnivall said his concern was if the easement does go through these homes then they would have to be moved, due to the fact you cannot have any structure sitting within an easement. There was much Board discussion regarding the easement and whether it did go through some of the existing mobile homes or not. The Board consensus was if the easement did go through the homes then it would need to be changed prior to the deed being recorded.

Mark Martens asked how Mr. Meiser planned on fixing the problem with the easement. Pete Franger, speaking for Mr. Meiser, said the ingress/egress easement had always been there and they added it into the grandfathered mobile home park so that they could get the required minimum lot area of 5 acres. Mr. Franger also said the buyer of the grandfathered mobile home park was present and had stated that he did not have a problem with granting those lots along the river an easement through the existing driveway of the mobile home park. Mr. Franger said he thought it would just be a matter of changing the legal description for the easement. There was much discussion between the Board members, Casi Cramer, Pete Franger, Terry Weiss, and Harold Meiser regarding the easement and where it

FULTON COUNTY BOARD OF ZONING APPEALS
AUGUST 11, 2004

actually lies on the property. The discussion also regarded whether the easement went through the back of some of those existing mobile homes. Bob Peterson, Mr. Meiser's Attorney, asked if it could be proven that the easement does not go through any of the existing homes and the exact location of the easement could be found if that would suffice the situation? There was much discussion regarding how to solve the easement situation. The Board consensus was that the exact placement of the easement or easements must be determined and a location survey done to find the exact locations of the existing mobile homes.

Chairperson, Mark Martens, entertained a motion to table the petition. Steve Furnivall moved to table the petition until a legal description is created for the minimum fifteen (15') foot ingress/egress easement access to the North border and a location survey is completed on the lots bordering that easement indicating where the structure sit on those lots. Debbie Barts seconded the motion. Motion carried as follows: Debbie Barts, Linda Herd, and Mark Martens being in favor and Steve Furnivall opposing.

IN RE: NEW BUSINESS

G. ROBERT FRANKS
SPECIAL EXCEPTION

G. Robert Franks, Docket #BZA 86-0704, Special Exception. Mr. Franks is requesting a Special Exception to operate a Major and Minor Auto Repair business on his property. The property consists of two acres and is located at 372 North State Road 19, Akron, IN (see attachment E). The property is zoned as an Agricultural District (AG). Mr. Franks has an existing building located on the property and wishes to utilize it for his business.

Plan Director, Casi Cramer, explained the AG District has Major and Minor Auto Repair listed within its Special Exception Uses so the request fits the district. Casi noted the property is located one mile North of the town of Akron. The existing building which Mr. Franks would like to utilize is 40' x 80' and has a 12" to 14" thick concrete floor, as well as, an existing office area. The existing building has three bays, two of which will have hoists, and an office area. Casi stated Mr. Franks has already obtained a Location Improvement Permit for a privacy fence to be placed at the rear of the existing building to shield it from view of the roadway. See attachment F for placement of privacy fence, existing building, and the proposed parking area. Mr. Franks has stated that he will properly dispose of any waste fluids by delivering them to a facility, which has a recycling program for the fluids. Casi said she did not foresee any effects on the existing roadway, State Road 19, due to the proposed business. She noted there is an existing entrance and parking area, which are covered by dustless gravel from the past business practices. The existing building was utilized as a fertilizer plant, as well as, an auto repair shop on two separate occasions in the past. Traffic generated by Mr. Franks proposed business would be from supply and part deliveries, as well as, the customer base. Parking will be in front and to the side of the existing building, which sets approximately one hundred and forty five feet (145') off of the centerline of State Road 19. Casi stated if the special exception is granted Mr. Franks will be the only employee of the business. The business will operate Monday through Friday from 10:00 a.m. to 7:00 p.m., as well as, some Saturday hours if needed. The Plan Director recommended approval of the Special Exception.

Chairperson, Mark Martens, asked if there was any further information Mr. Franks would like to add to the Plan Director's presentation.

Robert Franks said his existing building has been an eyesore for several years and he wants to change it. Mr. Franks explained the building is ideal for working on vehicles because it has thick concrete floors and the walls and trusses are structurally strong. Mr. Franks noted that he eventually would like to make the existing building all metal to help with the outside appearance. He explained all of his wasted fluids would be disposed of properly. He has a company in Warsaw, IN, that will take his wasted fluids and dispose of them in the proper manner. The fluids will be kept in plastic drums until the service from Warsaw, IN, can come pick them up from the business. Mr. Franks

FULTON COUNTY BOARD OF ZONING APPEALS
AUGUST 11, 2004

said he would keep all vehicles and their parts within the privacy fence so that it could not be seen from the road. He explained keeping everything within the fence would hopefully prevent theft too.

Chairperson, Mark Martens, asked for any Board member questions to the staff or the petitioner.

Steve Furnivall said he would like to see a condition placed on the special exception that there would be no outside storage, outside of the privacy fence.

Mark Martens and Steve Furnivall questioned Mr. Franks about the existing vehicles on the property. Mr. Franks stated most of those vehicles were not his and he has been trying to get a hold of the owners to get rid of them. Mr. Franks said he does not want his place to look like a junkyard and he will not have one.

Mark Martens asked for any further questions from the Board to the staff or petitioner. Being none, he entertained a motion to open the public hearing.

Steve Furnivall moved to open the public hearing. Debbie Barts seconded the motion. Motion carried as follows: Steve Furnivall, Debbie Barts, Linda Herd, and Mark Martens being in favor and no one opposing.

Mark Martens then asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing.

Will Strinsom, Miami County, said he knows Robert Franks will not have a junkyard on his property and he will keep the property maintained. He said the privacy fence would help protect the business and keep the vehicles from the view of the roadway. Mr. Strinsom stated Robert Franks is an excellent mechanic and has wanted to have his own shop for a long time but never got the chance to until now.

Mark Martens asked for any further comments in favor of the petition. Being none, he asked for those opposing the petition to please rise and state their name, address, and reason for attending the public hearing. Being no one opposed, Mark entertained a motion to close the public hearing.

Debbie Barts moved to close the public hearing. Linda Herd seconded the motion. Motion carried as follows: Debbie Barts, Linda Herd, Steve Furnivall, and Mark Martens being in favor and no one opposing.

With no further Board discussion Mark Martens asked for a motion regarding the petition. Linda Herd moved to approve Docket #BZA 86-0704 G. Robert Franks, requesting a Special Exception to operate a Major and Minor Auto Repair Business in the existing building located at, 372 N St Rd 19, Akron, IN, in the Agricultural District (AG) with the conditions that any outside storage be kept inside of the privacy fence and all fluids are properly disposed of. Steve Furnivall seconded the motion.

The Board members then proceeded to fill out their Findings of Fact Forms (attachments labeled G). The Administrative Secretary, Erica Tyler, conducted a roll call vote:

Debbie Barts	Yea
Steve Furnivall	Yea
Linda Herd	Yea
Mark Martens	Yea

The motion to approve Docket #BZA 86-0704 G. Robert Franks, requesting a Special Exception to operate a Major and Minor Auto Repair Business in the existing building located at, 372 N St Rd 19, Akron, IN, in the Agricultural District (AG) with the conditions that any outside storage be kept inside of the privacy fence and all fluids are properly disposed of passed with four votes being in favor and no one opposing.

FULTON COUNTY BOARD OF ZONING APPEALS
AUGUST 11, 2004

IN RE: NEW BUSINESS

NYONA SOUTH MUD LAKE CONSERVANCY
SPECIAL EXCEPTION

Chairperson, Mark Martens, requested that this petition be tabled until the next regularly scheduled meeting to obtain more information. Mark explained due to there being conflicting reports and surveys, there were issues that needed to be corrected before the Board could hear the petition.

Debbie Barts moved to table the petition until September 8, 2004. Steve Furnivall seconded the motion. Motion carried as follows: Debbie Barts, Steve Furnivall, Linda Herd, and Mark Martens being in favor and no one opposing.

IN RE: PLAN DIRECTOR REPORT

Casi Cramer presented the Board with an update of permits, applications, violations, and complaints that have occurred in the Plan Commission Office. (See attachment H)

It is duly noted that there were no Public Comments or Board Comments given at this time.

Being no further business to come in front of the Board of Zoning Appeals, Mark Martens, entertained a motion to adjourn the August 11, 2004, Board of Zoning Appeals meeting. Steve Furnivall moved to adjourn the August 11, 2004, Board of Zoning Appeals meeting at 8:55 p.m. Debbie Barts seconded the motion. Motion carried as follows: Steve Furnivall, Debbie Barts, Linda Herd, and Mark Martens being in favor and no one opposing.

FULTON COUNTY BOARD OF ZONING APPEALS

ATTEST: _____
Erica A. Tyler, Administrative Secretary

**FULTON COUNTY
BOARD OF ZONING APPEALS**

WEDNESDAY, SEPTEMBER 8, 2004

**7:00 P.M.
COMMISSIONERS/COUNCIL ROOM**

CALL TO ORDER

BOARD OF ZONING APPEALS MINUTES FOR:
August 11, 2004

OLD BUSINESS:
Harold Meiser 82-0504
Nyona South Mud Lake Conservancy 87-0704

NEW BUSINESS:
Bill Bailey 88-0804
Roland Sullivan 89-0804

PLAN DIRECTOR REPORT

PUBLIC COMMENTS

BOARD COMMENTS

ADJOURNMENT

FULTON COUNTY BOARD OF ZONING APPEALS
SEPTEMBER 8, 2004

The Fulton County Board of Zoning Appeals met on Wednesday the 8th day of September 2004, at 7:00 P.M. in the Commissioners/Council Room located in the Fulton County Office Building. Chairperson, Mark Martens, called the meeting to order at 7:01 p.m. The following members were present: Chairperson, Mark Martens; Vice Chairperson, Dan Walsh; Executive Secretary, Linda Herd; and Steve Furnivall. Also in attendance were: Plan Director, Casi Cramer; Administrative Secretary, Erica Tyler; and BZA Attorney, Greg Heller. It is duly noted that Debbie Barts was absent.

IN RE: MINUTES

AUGUST 11, 2004

Chairperson, Mark Martens, asked for any additions, deletions, or corrections to be made to the August 11, 2004, Board of Zoning Appeals minutes. Linda Herd noted on page 2 under the Nellie Knicker petition the first sentence of the second paragraph states, "...Mrs. Knicker's special exception for the temporary second dwelling on August 8, 2004." Linda said the sentence should be changed to state the following, "... Mrs. Knicker's special exception for the temporary second dwelling on August 8, **2001**." Mark asked for any further corrections to be made to the minutes. Being none, he entertained a motion regarding the minutes. Linda Herd moved to approve the August 11, 2004, Board of Zoning Appeals minutes with noted corrections. Dan Walsh seconded the motion. Motion carried as follows: Linda Herd, Dan Walsh, Steve Furnivall, and Mark Martens being in favor and no one opposing.

IN RE: OLD BUSINESS

HAROLD MEISER
DEVELOPMENT STANDARD VARIANCE

Harold Meiser, Docket #BZA 82-0504, Development Standard Variance. Mr. Meiser would like to sell his Mobile Home Park and keep the remaining land for himself. In order to do this Mr. Meiser has to meet the required standards for a Manufactured Home Park District (MP). If Mr. Meiser splits off his Mobile Home Park his remaining land will not comply with the required standards, so he must ask for a variance off of the minimum lot width requirement. Mr. Meiser's property is located at 4684 North State Road 25, Rochester, IN, and is located in an MP District (see attachment A). The property consists of 12.43 acres.

Plan Director, Casi Cramer, explained the Board tabled the petition at their August 11th meeting, until a legal description could be created for a minimum fifteen (15') foot ingress/egress easement giving access to the North border properties and a location survey could be completed on the lots bordering that easement indicating where the structures sit on those lots. Casi noted the fifteen (15') foot ingress/egress easement has been completed and the structures have been located (see attachment B). Casi said the proposed easement is grass and clear of obstacles, which would deter vehicle accessibility. Casi displayed pictures of the easement on the projector that show it being free and clear of obstacles as well as showing where it would be located on the property (see attachments labeled C).

Chairperson, Mark Martens, asked if there was any further information Mr. Meiser would like to add to the Plan Director's presentation. Mr. Meiser said he had nothing to add at this time.

Chairperson, Mark Martens, asked for any Board member questions to the staff or the petitioner.

Linda Herd questioned if the easement had to be stone, gravel, or some type of material other than grass. Casi Cramer said the Ordinance states all easements must be free and clear of obstacles but it does not say they have to be made of a certain material.

Mark Martens asked for any further Board member questions. Being none, he entertained a motion to open the public hearing.

FULTON COUNTY BOARD OF ZONING APPEALS
SEPTEMBER 8, 2004

Dan Walsh moved to open the public hearing. Linda Herd seconded the motion. Motion carried as follows: Dan Walsh, Linda Herd, Steve Furnivall, and Mark Martens being in favor and no one opposing.

Mark Martens then asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing. Being none, he asked those opposing the petition to do the same. Being none, Mark, entertained a motion to close the public hearing.

Steve Furnivall moved to close the public hearing. Linda Herd seconded the motion. Motion carried as follows: Steve Furnivall, Linda Herd, Dan Walsh, and Mark Martens being in favor and no one opposing.

With no further Board discussion Mark Martens asked for a motion regarding the petition. Steve Furnivall moved to approve, Docket #BZA 82-0504 Harold Meiser, requesting a Development Standards Variance off of the required minimum lot width located in the Manufactured Home Park District (MP) at 4684 North State Road 25, Rochester, IN, with the condition that it is a subdivision of two lots, one equaling 7.27 acres and one equaling 5.16 acres as shown in the revised survey given to the Board. Dan Walsh seconded the motion.

The Board members then proceeded to fill out their Findings of Fact Forms (attachments labeled D). The Administrative Secretary, Erica Tyler, conducted a roll call vote:

Steve Furnivall	Nay
Dan Walsh	Yea
Linda Herd	Yea
Mark Martens	Yea

The motion to approve, Docket #BZA 82-0504 Harold Meiser, requesting a Development Standards Variance off of the required minimum lot width located in the Manufactured Home Park District (MP) at 4684 North State Road 25, Rochester, IN, with the condition that it is a subdivision of two lots, one equaling 7.27 acres and one equaling 5.16 acres as shown in the revised survey given to the Board passed with three votes being in favor and one vote opposing.

IN RE: OLD BUSINESS

NYONA SOUTH MUD LAKE CONSERVANCY
SPECIAL EXCEPTION

Nyona South Mud Lake Conservancy District, Docket #BZA 87-0704, Special Exception. The Nyona South Mud Lake Conservancy District received approval for two special exceptions on January 9th, 2002, for a government building and a mechanical sewage treatment facility. The construction plans were delayed and the special exception was inadvertently nullified due to time limitations. Work must begin within one year on special exception projects. Now the Conservancy District must ask for another special exception for the government building and mechanical sewage treatment facility. There is one difference in this petition than the first petition, and that is the placement of the facilities. The Conservancy purchased additional land directly east of the originally planned location, which would allow the buildings to set farther back off the road than originally planned. The property in question is located on the east side of Knoll Drive just north of South East Lakeshore Drive in Macy, IN, and consists of approximately 4.94 acres total (see attachment E).

Plan Director, Casi Cramer, noted the petition was tabled at the August 11th, 2004, Board of Zoning Appeals meeting. Casi said the proposed 4.94 acres is located within the Agricultural District (AG) and the Lake Residential District (R3). All of the buildings, as well as, the aeration tanks will be placed within the AG District; there is only a

FULTON COUNTY BOARD OF ZONING APPEALS
SEPTEMBER 8, 2004

small piece at the northwest corner of the property located within the R3 District (see attachment F). With the plans for the government building and the mechanical sewage treatment facility being the same as what was presented to the Board at the January 9th, 2002, Board of Zoning Appeals meeting, except for the additional land purchased, Casi recommended approval of the special exception. Casi stated she still did not foresee any problems being created by allowing this government building and mechanical sewage treatment facility, as there was none at the first hearing for the petition.

Chairperson, Mark Martens, asked if there was a representative of Nyona South Mud Lake Conservancy District that would like to add information to the Plan Director's presentation.

Ron Roe, President of Nyona South Mud Lake Conservancy District, said by moving the facility to the additional land purchased there will be more trees between the facility and the road creating a visual screen. By moving it to the additional land will also keep it farther from the lakes and residences.

Chairperson, Mark Martens, asked for any Board member questions to the staff or the petitioner. Being none, he entertained a motion to open the public hearing.

Dan Walsh moved to open the public hearing. Linda Herd seconded the motion. Motion carried as follows: Dan Walsh, Linda Herd, Steve Furnivall, and Mark Martens being in favor and no one opposing.

Mark Martens then asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing. Being none, he asked for those opposing to do the same. Being none, Mark entertained a motion to close the public hearing.

Steve Furnivall moved to close the public hearing. Dan Walsh seconded the motion. Motion carried as follows: Steve Furnivall, Dan Walsh, Linda Herd, and Mark Martens being in favor and no one opposing.

With no further Board discussion Mark Martens asked for a motion regarding the petition. Dan Walsh moved to approve, Docket #BZA 87-0704 Nyona South Mud Lake Conservancy District, requesting a Special Exception to place a sewage treatment plant and a government building in an Agricultural District (AG). Steve Furnivall seconded the motion.

The Board members then proceeded to fill out their Findings of Fact Forms (attachments labeled G). The Administrative Secretary, Erica Tyler, conducted a roll call vote:

Linda Herd	Yea
Dan Walsh	Yea
Steve Furnivall	Yea
Mark Martens	Yea

The motion to approve, Docket #BZA 87-0704 Nyona South Mud Lake Conservancy District, requesting a Special Exception to place a sewage treatment plant and a government building in an Agricultural District (AG) passed with four votes being in favor and no one opposing.

FULTON COUNTY BOARD OF ZONING APPEALS
SEPTEMBER 8, 2004

IN RE: NEW BUSINESS

BILL BAILEY
SPECIAL EXCEPTION

Bill Bailey, Docket #BZA 88-0804, Special Exception. Mr. Bailey is requesting a special exception to operate a kennel on his grandfather's property located at, 8501 West Olson Rd, Rochester, IN. The property consists of approximately 84 acres and is located within the Agricultural District (AG) (see attachment H). Mr. Claiborn Wamsley is the actual property owner and has signed an owner verification form granting his approval of his grandson's proposed project.

Chairperson, Mark Martens, noted the Board members all received a copy of a letter from Mr. and Mrs. Carl Wrench as well as a letter from Mr. Bill Bailey, which they all should read if they have not done so (see attachments labeled I). Mark then asked for the Plan Director's presentation.

Plan Director, Casi Cramer, said the property in question is bordered on the north by Olson Road, the east and west by farm fields, and on the south by County Road 500 North. The north side of Olson Road is densely wooded and the closest houses are approximately a quarter of a mile away from the project site. Mr. Bailey will utilize the kennel to train retrievers for hunting and competition purposes only, there will not be any breeding. If approved Mr. Bailey's kennel will be a 48-foot by 24-foot pole building, which will sit approximately 260 feet off of the centerline of Olson Road. Casi explained the building will contain an interior area for the animals and will have ten separate kennel runs, which measure 10-foot by 3-foot, on each side of the building creating a total of 20 runs. There will be a perimeter fence, approximately four feet in height, around the kennel runs, as well as, a fence enclosing the front of the building up to Olson Road (see attachment J). Casi stated the proposed building would be required to meet all setbacks as well as obtain a Location Improvement Permit prior to construction. Chain link fences are not required to meet setbacks or obtain permits.

Chairperson, Mark Martens, asked if there was any information Mr. Bailey would like to add to the Plan Director's presentation.

Bill Bailey said he had nothing further to add at this time.

Chairperson, Mark Martens, asked for any Board member questions to the staff or the petitioner. Being none, he entertained a motion to open the public hearing.

Dan Walsh moved to open the public hearing. Linda Herd seconded the motion. Motion carried as follows: Dan Walsh, Linda Herd, Steve Furnivall, and Mark Martens being in favor and no one opposing.

Mark Martens then asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing.

George Wamsley, Mr. Bailey's father, said the property does belong to Claiborn Wamsley and he is in support of this kennel. He stated Bill has worked for a professional dog trainer in Wisconsin for the last seven years who speaks highly of him. Mr. Wamsley believes this proposed kennel will be a benefit to the community and may bring more economical gain to the County.

Ralph Stayton said he is an adjacent landowner to the property in question and he is in favor of the kennel. Mark Martens asked Mr. Stayton where his property was located? Mr. Stayton said his property is directly to the east of Mr. Wamsley's.

Ron Pokrajac said he owns the property with the gravel pit on it, which would be north across Olson Road and to the east of Mr. Wamsley's property. Mr. Pokrajac stated he did not have a problem with the kennel and was in favor of it. Mr. Pokrajac explained that he has allowed people from the Retriever Club to train their dogs on his property before and has never had any complaints. He feels it would be a benefit to the community.

FULTON COUNTY BOARD OF ZONING APPEALS
SEPTEMBER 8, 2004

Mark Martens asked for any further comments in favor of the petition. Being none, he asked for those opposing the petition to please rise and state their name, address, and reason for attending the public hearing.

Carl Wrench, property owner north across Olson Road and to the west of Mr. Wamsley's property, said he is opposing the petition. Mr. Wrench feels there is a good visual screen from his property to Mr. Wamsley's but he does not feel that will help with the sound. Mr. Wrench is concerned about the amount of noise coming from the kennel, whether it is dogs barking or gunfire from training the dogs.

Mark Martens asked for any further comments in opposition of the petition. Being none, he asked Mr. Bailey to address the gunfire and barking issue.

Bill Bailey stated there would be very limited starting pistol use at the site; most of the gunfire training will be done on separate training course. Mr. Bailey explained at his previous job in Wisconsin they had 25 to 30 dogs at any given time and they were able to redirect the dogs barking with their training programs. Mr. Bailey said he has never had to resort to a bark collar but that would be an option he could use if he could not redirect the dog through the training process.

Mark Martens questioned how often Mr. Bailey would be utilizing a starting pistol? Mr. Bailey said within an hour and a half period he may have 36 pistol shots and they would be spread out at three at a time for every ten minutes. Mr. Bailey described the sound of the pistol being as loud as a 22.

Dan Walsh asked how often Mr. Bailey would be shooting the pistol? Mr. Bailey said maybe twice a week.

Mark Martens asked for any further Board questions to the petitioner. Being none, he entertained a motion to close the public hearing. Steve Furnivall moved to close the public hearing. Dan Walsh seconded the motion. Motion carried as follows: Steve Furnivall, Dan Walsh, Linda Herd, and Mark Martens being in favor and no one opposing.

Mark then asked for any Board discussion.

Steve Furnivall voiced concern about the noise or barking coming from the kennel. Steve felt it was important to have someone living on site so that the dogs could be redirected when barking.

Mark Martens questioned where the majority of the gunfire would be held? Mr. Bailey said his father owns a field about ten miles away from the proposed site and his grandfather owns another field about three miles south which he would utilize for the gun training. Mr. Bailey explained most of his training at this specific site would be obedience training because there is not enough open field at this site to accurately train the dogs on gunfire.

Mark Martens asked for any further Board discussion. Being none, he entertained a motion regarding the petition.

Linda Herd moved to approve, Docket #BZA 88-0804 Bill Bailey, requesting a Special Exception to operate a kennel at 8501 West Olson Road, Rochester, IN, located in the Agricultural District (AG). Dan Walsh seconded the motion.

The Board members then proceeded to fill out their Findings of Fact Forms (attachments labeled L). The Administrative Secretary, Erica Tyler, conducted a roll call vote:

Steve Furnivall	Nay
Dan Walsh	Yea
Linda Herd	Yea
Mark Martens	Yea

The motion to approve, Docket #BZA 88-0804 Bill Bailey, requesting a Special Exception to operate a kennel at 8501 West Olson Road, Rochester, IN, located in the Agricultural District (AG) passed with three votes being in favor and one opposing.

FULTON COUNTY BOARD OF ZONING APPEALS
SEPTEMBER 8, 2004

IN RE: NEW BUSINESS

ROLAND SULLIVAN
ADMINISTRATIVE APPEAL

Roland Sullivan, Docket #BZA 89-0804, Administrative Appeal. Mr. Sullivan is appealing the administrative decision regarding a fine letter that was issued for an illegal use of land. Mr. Sullivan contends that he has a grandfathered junk/salvage business located at, 3702 East 950 South, Macy, IN, within the Agricultural District (AG) (see attachment L).

Plan Director, Casi Cramer, explained in making her administrative decision she utilized Article 9, Section 9.3, in the Fulton County Zoning Ordinance which states the following:

9.3 Nonconforming Buildings, Structures, and Uses of Land

Any continuously occupied, lawfully established structure, building, or use of land prior to the effective date of this Ordinance, or its subsequent amendments, that no longer meets the developmental standards due to reasons stated below shall be deemed a Legal Nonconforming Building(s), Structure(s), or Use of Land.

Legal Nonconforming Building(s), Structure(s), or Use(s) of Land no longer meet one or more of the following development standards of this Ordinance:

- a. Front, Side and Rear Yard Setbacks,
- b. Maximum Lot Coverage,
- c. Minimum Main Floor Area,
- d. Minimum Finished Floor Area,
- e. Height,
- f. Buffer yard,
- g. Parking,
- h. Accessory Structures/Buildings, and
- i. Any other provision of this Ordinance that is applicable to the building, structure, or use of land.

A legal nonconforming building, structure, or use of land may continue provided that it remains the same or fits within the below described tolerances:

- A. Any legal nonconforming building(s), structure(s), or use(s) of land shall not be enlarged or altered in a manner that increases its nonconformity, but any building(s), structure(s), or use(s) of land, or portion thereof, may be altered to decrease its nonconformity.

Casi said her position on whether a junk/salvage operation is grandfathered on an entire tract of land centers on proof that the property owner was operating a business prior to zoning. Mr. Sullivan obtained a Junk Dealer License from the County Clerk's Office on April 27th, 2000, which was prior to zoning. However, these licenses are only good for one year. Mr. Sullivan has stated because the address on the Junk Dealer License (3702 E 950 S, Macy, IN) pertains to his entire 30-acre tract, then the entire 30-acre tract is grandfathered as a junk/salvage operation. Other junkyards in the County have filed a Business Tangible Personal Property Return with the County Assessor's Office proving that they were a junk/salvage operation prior to zoning taking effect. The personal property returns are the responsibility of every business within the county. The Junk Dealer License Mr. Sullivan obtained was valid for one year after issuance, which would have effectively grandfathered the entire 30-acre tract as a junk yard under the zoning ordinance, except for the fact Mr. Sullivan never filed any personal property return showing a profit on this business and in essence proving that the business was started prior to zoning. The information available shows that it is possible Mr. Sullivan took a year, or two years, off from the salvage business and then recently stated the business again. Casi explained Mr. Sullivan has not submitted records concerning this business to the County Assessor and therefore, as far as the county is concerned, is not an operating business. Casi stated once a grandfathered junk/salvage operation expands outside their limits they have to comply with the Zoning Ordinances, in Mr. Sullivan case he would either have to remove everything from the property or rezone his property to an

FULTON COUNTY BOARD OF ZONING APPEALS
SEPTEMBER 8, 2004

Industrial District (IN). Mr. Sullivan was issued a warning letter on April 1st, 2003, which he responded to by writing a letter to the Plan Commission Office explaining his business. Due to the fact, the most recent aerial photos of the County were taken in the Spring of 2000, the staff decided to drop the violation and observe the property for future expansions that could be documented (see attachment M). In the Spring of 2004, aerial photos were taken of the County to update records (see attachment N). On March 26th, 2004, Mr. Sullivan was issued a warning letter regarding his nonconforming use of land/illegal business and the fact that it must now comply with the Zoning Ordinance due to its expansion; he had until April 16th, 2004, to comply. Mr. Sullivan responded with a letter explaining his business on April 6th, 2004. He was then sent a letter explaining why he was not a grandfathered business and giving him an extension of time, which changed the compliance date to May 13th, 2004. Due to the large quantity of scrap materials on Mr. Sullivan's property, Mr. Sullivan was informed during a phone conversation with Casi Cramer, as well as in the letter sent to him that significant progress must be made during the time extension in order for any additional extensions to be considered. Mr. Sullivan then called the Plan Commission Office on May 3rd, 2004, and asked if the compliance date could be changed to May 17th, 2004, in order to incorporate the weekend, which the staff agreed to do. Mr. Sullivan called on May 17th, 2004, and requested that the compliance date be extended again. Due to the fact, Mr. Sullivan had been making significant progress in removing the scrap materials and debris from the property; he was given an additional time extension until June 30th, 2004. Mr. Sullivan was informed during this phone conversation, as he had been in the past, that he needed to continue to make significant progress, or there would be no further extensions. On June 30th, 2004, Mr. Sullivan again called the Plan Commission Office to ask for an additional time extension. Due to the fact, the progress on compliance had slowed significantly and Mr. Sullivan indicated that he was choosing which items to scrap out and sell and which items to leave on the property, he was told that the property must be in compliance by July 31st, 2004, or fines would begin to accrue. Casi noted Mr. Sullivan had been informed during all phone conversations that the process of cleaning the property was not intended to be a prolongation of the business, although if he could make a profit from the clean up, there would be no objection from the Plan Commission Office as long as the progress was swift and significant. Upon inspection on August 2nd, 2004, Mr. Sullivan had failed to comply with the Zoning Ordinance and was therefore sent a violation letter fining him \$50.00 and stating that the property had to be in compliance and the fine paid by August 23rd, 2004. Mr. Sullivan filed his intent to appeal with the Plan Commission Office on August 9th, 2004. Mr. Sullivan stated in his intent to appeal that he had a misunderstanding regarding the Junk Dealer License and the Clerk's Office. Casi Cramer explained it has been her understanding of the Zoning Ordinance, as well as, her past procedure when dealing with scrap and junk operations, that if these operations do not have valid proof of a grandfathered business, such as tax returns, then once they expand they must comply with the Ordinance. Mr. Sullivan has a Junk Dealer License that was valid for one year, which gave him the ability to be grandfathered as a business, and yet Mr. Sullivan never filed tax returns on his inventory that would have proved beyond a doubt that he began operation prior to Zoning. Casi therefore determined that Mr. Sullivan's operation was in violation of the Zoning Ordinance, due to the fact that expansion is evident from the aerial photos and a grandfathered business was never established. Casi said Mr. Sullivan appears to have a Nonconforming Use of Land, which may not expand without complying with the Zoning Ordinance.

Casi Cramer asked if there were any questions from the Board.

Steve Furnivall asked if the Junk Dealer Licenses were still given out by the County Clerk? Casi said the State of Indiana stopped requiring counties to issue those licenses back in the 1990's. The Fulton County Clerk was not aware of the State not requiring these licenses so they continued to do so until June or July of 2000.

Chairperson, Mark Martens, asked if there was any information Mr. Sullivan would like to add to the Plan Director's presentation.

Ted Waggoner stated he would be representing Mr. Roland Sullivan. Mr. Waggoner asked if it was true that Mr. Sullivan could add or intensify the use within the nonconforming area. Casi Cramer said her understanding from the Zoning Ordinance is if you expand or alter the illegal business in any manner, then the nonconforming

FULTON COUNTY BOARD OF ZONING APPEALS
SEPTEMBER 8, 2004

status is lost. Mr. Waggoner questioned whether Casi had done further research to see if Mr. Sullivan had Junk Dealer Licenses in prior years to the 2000 license he was issued. Mr. Waggoner stated Mr. Sullivan obtained licenses in June of 1994, July of 1995 and February of 1999. Casi said no; due to the fact that any business not in existence after the year of 2000 is not grandfathered and any business that existed before the year of 2000 should have tax returns to prove it. Mr. Waggoner asked Mr. Sullivan how long he had owned the property in question and how long he had been operating the junk/salvage business there. Mr. Sullivan stated he bought the property in 1986 and has been operating his junk/salvage business there since the day he purchased it. Mr. Waggoner asked if there had been a junk/salvage business on the property prior to Mr. Sullivan's purchasing of it. Mr. Sullivan said there was not a salvage business there; but junk had been stored on the property prior to him purchasing the land. Mr. Sullivan explained he takes the junk and processes it then takes it to a junkyard in Rochester and he takes the cooper and non-ferrous materials to a junkyard in Peru, IN. Mr. Sullivan said he works everyday on his property except Sundays and has done so since 1986. Mr. Waggoner asked Mr. Sullivan if the expansion of his area occurred before or after the first time talking to Casi Cramer. Mr. Sullivan stated he does not know when the expansion happened due to the fact he has people donating or dropping off materials all the time and he tries to process them as soon as he gets them. Mr. Waggoner asked if Mr. Sullivan had tried to obtain a Junk Dealer License every year. Mr. Sullivan stated he had tried to obtain the licenses every year but had missed a few due to working at another junkyard. Mr. Waggoner asked Mr. Sullivan if it was true that he had not filed tax returns for his business within the last four years. Mr. Sullivan said he filed his tax returns with the Liberty Township Trustee, Jim Sutton, but the trustee did not individually list what items were on the property. Mr. Sullivan explained since most of his materials are donated they do not have a cost basis so they cannot be placed on the taxes. Mr. Sullivan said he has an accountant that works with him every year to file his income taxes and his source of income, which comes from the junk/salvage operation. Mr. Waggoner asked Mr. Sullivan what his intentions were with the property in question. Mr. Sullivan said he wants to completely clean the property and possibly sell some of the property off in the future. Mr. Waggoner asked if Mr. Sullivan would still be allowing materials to be brought in to be salvaged. Mr. Sullivan said he would not allow any more materials to be brought into the property. Mr. Sullivan noted that he has helped other junk/salvage business in Fulton County clean up in the past years. Mr. Waggoner stated Mr. Sullivan is looking to get out of the junk/salvage business and will be completely cleaning his property. Mr. Waggoner said he and Mr. Sullivan would ask the Board to table the Administrative Appeal for at least six months then come back look at the property again at that point. This would give Mr. Sullivan time to further clean the property and the Board can be sure at that time that a significant amount of the materials had been removed.

Mark Martens then entertained comments and questions from the Board members to the petitioner.

Steve Furnivall asked if Mr. Sullivan would or would not be allowing more materials to be brought in. Mr. Waggoner said Mr. Sullivan would not be bringing in more materials unless there was no other choice. Mr. Sullivan said he will try to do the processing on the owner's site but if they will not allow him to do that or if they need it removed immediately then he will have to bring it back to his property. Steve said if Mr. Sullivan continues to allow materials to be brought in then he would still technically be operating his illegal nonconforming business.

Steve Furnivall questioned if Mr. Sullivan was erecting a fence on the property. Mr. Sullivan said he is putting up and he had started it a long time ago. Steve noted that the fence Mr. Sullivan was describing sounded like a privacy fence. Mr. Sullivan said it is a privacy fence, which is made by wood planks that are six feet tall and eight feet wide. Casi Cramer stated if Mr. Sullivan is erecting a privacy fence he needs to come to the Plan Commission Office to obtain a Location Improvement Permit.

Mark Martens asked if he had heard correctly that Mr. Sullivan was making a commitment to have the property cleaned within 18 months. Mr. Waggoner said that was correct and by cleaned everything but the trees would be removed from the property.

There was much discussion regarding what an accurate time limit would be to give Mr. Sullivan to have the property completely clean and how the process of his cleaning would be monitored. The Board consensus was that photos needed to be taken of the property before the clean up process began and during the process as well as Mr.

FULTON COUNTY BOARD OF ZONING APPEALS
SEPTEMBER 8, 2004

Sullivan should keep an inventory list for everything he removes from the property. By doing this the Board will have some kind of proof to go by in six months to see if there has been a significant amount of materials removed from the property.

Mark Martens entertained a motion to table the petition. Dan Walsh moved to table, Docket #BZA 89-0804 Roland Sullivan, requesting an Administrative Appeal for the property located at 3702 East 950 South, Macy, IN 46951, within the Agricultural District (AG), for six months being March 2005; after the six month period the property will be reviewed again to see if there has been a significant amount of salvage removed from the property in question. Steve Furnivall seconded the motion. The motion carried as follows: Dan Walsh, Steve Furnivall, Linda Herd, and Mark Martens being in favor and no one opposing.

Vice Chairperson, Dan Walsh, requested a quick recess from the meeting at 9:05 P.M. Chairperson, Mark Martens, called the meeting back to order at 9:10 P.M.

IN RE: PLAN DIRECTOR REPORT

Casi Cramer presented the Board with an update of permits, applications, violations, and complaints that have occurred in the Plan Commission Office. (See attachment O)

It is duly noted that there were no Public Comments or Board Comments given at this time.

Being no further business to come in front of the Board of Zoning Appeals, Mark Martens, entertained a motion to adjourn the September 8th, 2004, Board of Zoning Appeals meeting. Steve Furnivall moved to adjourn the September 8th, 2004, Board of Zoning Appeals meeting at 9:18 P.M. Dan Walsh seconded the motion. Motion carried as follows: Steve Furnivall, Dan Walsh, Linda Herd, and Mark Martens being in favor and no one opposing.

FULTON COUNTY BOARD OF ZONING APPEALS

ATTEST: _____
Erica A. Tyler, Administrative Secretary

FULTON COUNTY BOARD OF ZONING APPEALS
OCTOBER 13, 2004

**FULTON COUNTY
BOARD OF ZONING APPEALS**

WEDNESDAY, OCTOBER 13, 2004

**7:00 P.M.
COMMISSIONERS/COUNCIL ROOM**

CALL TO ORDER

**BOARD OF ZONING APPEALS MINUTES FOR:
September 8, 2004**

OLD BUSINESS

NEW BUSINESS:
Dennis Milliken 90-0904
Gretchen Coplen 92-0904

PLAN DIRECTOR REPORT

PUBLIC COMMENTS

BOARD COMMENTS

ADJOURNMENT

FULTON COUNTY BOARD OF ZONING APPEALS
OCTOBER 13, 2004

The Fulton County Board of Zoning Appeals met on Wednesday the 13th day of October 2004, at 7:00 P.M. in the Commissioners/Council Room located in the Fulton County Office Building. Chairperson, Mark Martens, called the meeting to order at 7:05 p.m. The following members were present: Chairperson, Mark Martens; Vice Chairperson, Dan Walsh; Executive Secretary, Linda Herd; Debbie Barts and Steve Furnivall. Also in attendance were: Plan Director, Casi Cramer; Administrative Secretary, Erica Tyler; and BZA Attorney, Greg Heller.

IN RE: MINUTES

SEPTEMBER 8, 2004

Chairperson, Mark Martens, asked for any additions, deletions, or corrections to be made to the September 8, 2004, Board of Zoning Appeals minutes. Being none, he entertained a motion regarding the minutes. Dan Walsh moved to approve the September 8, 2004, Board of Zoning Appeals minutes. Linda Herd seconded the motion. Motion carried as follows: Dan Walsh, Linda Herd, Debbie Barts, Steve Furnivall and Mark Martens being in favor and no one opposing.

It is duly noted that there was no Old Business reported at this time.

IN RE: NEW BUSINESS

DENNIS MILLIKEN
DEVELOPMENT STANDARDS VARIANCE

Dennis Milliken, Docket #BZA 90-0904, Development Standards Variance. Mr. Milliken is requesting a development standards variance of fifteen feet (15') off of the required front yard setback of thirty feet (30') off of the Right-of-way (ROW) of the road. This request is for the purpose of building an 18' x 62.8' garage on Lot #6 in Fair Oaks Subdivision, which is located in a Residential Cluster District (R1). Mr. Milliken will also be building a new home on this lot, which will meet all of the required setbacks; the variance is for the garage only. The address is 3483 Strawberry Lane, Rochester, IN 46975 (see attachment A).

Plan Director, Casi Cramer, explained within the R1 District there is a minimum front yard setback of 30 feet off of the Right-of-way (ROW) of the road. The Right-of-way of Strawberry Lane is fifty feet (50'); therefore Mr. Milliken's buildings must sit a total of fifty-five feet (55') off of the centerline of Strawberry Lane. The Fair Oaks Subdivision has a mandated setback off the mean river level of fifty foot (50'), thus creating a small building envelope area for the dwelling and garage (see attachment B). Casi further noted that the garage and dwelling would also need to be a minimum of ten feet (10') off of the side property lines. Mr. Milliken has stated to Casi that he needs a garage deep enough to contain two vehicles and a boat. Casi stated the platted lot sets on an angle, which would make the northwest corner of the proposed garage set 20 feet off of the ROW and the southwest corner would set approximately 19 feet off of the ROW. Per the surveyor's stakes, the existing fence located on the property sets approximately one foot (1') off of the ROW. Casi Cramer recommended a 15-foot variance due to the angular nature of the lot and the tight fit that will be associated with the placement of the house and the garage. Casi Cramer recommended approval of the 15-foot variance for the purpose of building a garage.

Chairperson, Mark Martens, asked if there was any information Mr. Milliken would like to add to the Plan Director's presentation.

Mr. Milliken said his garage doors would be facing towards Strawberry Lane, being to the west. Mr. Milliken explained he needs the garage for storage of his vehicles and boat.

FULTON COUNTY BOARD OF ZONING APPEALS
OCTOBER 13, 2004

Chairperson, Mark Martens, asked for any Board member questions to the staff or the petitioner. Being none, he entertained a motion to open the public hearing.

Debbie Barts moved to open the public hearing. Linda Herd seconded the motion. Motion carried as follows: Debbie Barts, Linda Herd, Steve Furnivall, Dan Walsh and Mark Martens being in favor and no one opposing.

Mark Martens then asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing. Being none, he asked those opposing the petition to do the same. Being none, Mark entertained a motion to close the public hearing.

Dan Walsh moved to close the public hearing. Linda Herd seconded the motion. Motion carried as follows: Dan Walsh, Linda Herd, Debbie Barts, Steve Furnivall and Mark Martens being in favor and no one opposing.

Mark Martens then asked for any Board discussion.

Steve Furnivall voiced concern about the garage doors facing toward the road. He said there is dense foliage and pine trees growing along the road and there is also a curve in the road. Steve is worried about vision clearance.

There was some Board discussion regarding the vision clearance and the speed limit of Strawberry Lane. Mark Martens asked for any further Board discussion. Being none, he entertained a motion regarding the petition.

Debbie Barts moved to approve, Docket #BZA 90-0904 Dennis Milliken, requesting a Development Standards Variance of fifteen feet (15') off of the required front yard setback, the property is located in a Residential Cluster District (R1) at 3483 Strawberry Lane, Rochester, IN. Steve Furnivall seconded the motion.

The Board members then proceeded to fill out their Findings of Fact Forms (attachments labeled C). The Administrative Secretary, Erica Tyler, conducted a roll call vote:

Steve Furnivall	Yea
Dan Walsh	Nay
Linda Herd	Yea
Debbie Barts	Yea
Mark Martens	Yea

The motion to approve, Docket #BZA 90-0904 Dennis Milliken, requesting a Development Standards Variance of fifteen feet (15') off of the required front yard setback, the property is located in a Residential Cluster District (R1) at 3483 Strawberry Lane, Rochester, IN, passed with four votes being in favor and one opposing.

IN RE: NEW BUSINESS

GRETCHEN COPLIN
DEVELOPMENT STANDARDS VARIANCE

Gretchen Coplen, Docket #BZA 92-0904, Development Standards Variance. It is duly noted that Board Member Debbie Barts dismissed herself from this petition due to the fact she had a conflict of interest. Ms. Coplen is requesting a development standards variance of three hundred and forty square feet (340 sq ft) off of the required minimum main floor area for a one story primary structure. This variance is for the purpose of building a 640 sq ft one story dwelling within the Agricultural District (AG). The property consists of approximately 22.66 acres and is located just northwest of the address known as, 5320 Mt Zion Rd, Rochester, IN (see attachment D). Ms. Coplen's proposed dwelling will meet all of the required setbacks.

FULTON COUNTY BOARD OF ZONING APPEALS
OCTOBER 13, 2004

Plan Director, Casi Cramer, explained the AG District requires any new one story primary structures, being a dwelling, to be at least 980 sq ft, Ms. Coplen wants to have a 640 sq ft dwelling. Casi noted this property is not located within a floodplain and the soil where the home is proposed contains approximately 15 acres of Kosciusko soils. Wes Burden, Health Department Sanitarian, has stated there is a good probability that sufficient area for a septic system can be found within these soils. A typical septic system for a one bedroom home placed on Kosciusko soils would require approximately 300 sq ft of space for the leach field and a 750 to 800 gallon tank installation. Casi stated the 22 acres is a woodlot and one of Ms. Coplen's concerns is to preserve the natural aesthetics of her property. Ms. Coplen has stated she would like to build a small home which resembles the definition of a seasonal cabin, except for the fact that Ms. Coplen would be utilizing the dwelling as a permanent residence and no other dwelling would ever be built on the property without first splitting the land. Ms. Coplen has also stated that her request is based upon her future planning in regards to her income and present employment. Casi Cramer said in assessing a variance request, her opinion is typically based solely on physical facts associated with the land and the practical difficulty encompassing the use in relation to these physical facets. A practical difficulty is defined as: "A difficulty with regard to one's ability to improve land stemming from regulations of this Ordinance, a practical difficulty is not a "hardship," rather it is a situation where the owner could comply with the regulations within this Ordinance, but would like a variance from the Development Standards to improve his site in a practical manner; for instance, a person may request a variance from a side yard setback due to a large tree, which is blocking the only location that would meet the Development Standards for a new garage location." The only aspect of this property that could be considered a practical difficulty, is the fact that the entire 22 acres owned by Ms. Coplen happens to be a woodlot, which is a slightly uncommon occurrence, even in Fulton County. Casi Cramer noted the Comprehensive Plan states the following about woodlots: "There are presently several small and medium sized woodlots in Fulton County. Because of the many benefits they provide, these woodlots should be managed. A forest stand can reduce air temperatures in the summer by about 10 degrees Fahrenheit and can reduce wind velocities by 20 to 60 percent. Among other benefits woodlots and hedgerows provide vital wildlife habitat and even clean pollutants from the air; an acre of woods is estimated to absorb ten tons of carbon dioxide per year. On a smaller scale, saving a few trees on a site reduces energy bills for the property owner, reduces the erosion of soil on construction sites, and increases the value of the property. Because woodlots are important to the rural character of the Fulton County, and provide a host of other benefits to property owners, any new development should be designed in such a way to minimize the impact on woodlots and tree stands." Casi explained due to the fact it is at the Board of Zoning Appeals discretion to interpret the definition of practical difficulty beyond the obvious physical attributes, it is her feeling that there are no physical aspects of this property that could be considered a practical difficulty in regards to the construction of a dwelling. Therefore, the Plan Director's recommendation is that the petition be denied.

Chairperson, Mark Martens, asked if there was any information Ms. Coplen would like to add to the Plan Director's presentation.

Ms. Coplen said she is trying to preserve as many trees as she can, as well as, preserve the wildlife that already exists on her property by building a smaller home. Ms. Coplen explained she is an artist and wants to keep the natural resources around her to help inspire her art. She is also financially unable to build a bigger home than what she is proposing and would like to avoid a mortgage if at all possible. Ms. Coplen added that all of the neighbors she has talked to regarding her variance have stated that they do not have a problem with what she is proposing to do on her property.

Chairperson, Mark Martens, asked for any Board Member questions to the staff or the petitioner.

Dan Walsh questioned if Ms. Coplen had an estimated cost for the construction of the proposed home. Ms. Coplen said she did not have an estimate at this time.

Steve Furnivall said on the plans for Ms. Coplen's home it has a loft, so is that considered to be a second story. Ms. Coplen said it will be a sleeping loft that you may be able to stand up in but it would not be considered a second story.

FULTON COUNTY BOARD OF ZONING APPEALS
OCTOBER 13, 2004

Mark Martens questioned Steve Furnivall about what the Plan Commission Board Member's thought process was when they created the square footage requirements for the AG District, as well as, the seasonal cabins. Steve Furnivall said he did not remember the thought process behind the seasonal cabins but the square footage requirements listed in the AG District was based on singlewide mobile homes. Steve said the 980 sq ft minimum limited the amount of older singlewide mobile homes allowed to be brought into the County. Steve explained when the Board talked about seasonal cabins he thought it was more based on cabins for migrant workers or hunting cabins. Casi Cramer stated the seasonal cabin definition was based on the fact that you could have a cabin on piece of property that already had a home on it. That is why the definition says the seasonal cabin can only be occupied for six months at a time.

Mark Martens asked for any further Board Member questions. Being none, he entertained a motion to open the public hearing.

Dan Walsh moved to open the public hearing. Linda Herd seconded the motion. Motion carried as follows: Dan Walsh, Linda Herd, Steve Furnivall and Mark Martens being in favor and no one opposing.

Mark Martens then asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing.

Gilbert Foster, 5303 Mt Zion Rd, said he highly approves of what Ms. Coplen wants to do on her property. He noted Ms. Coplen is a very conserving person and knows she would take care of the nature. Mr. Foster also felt if Ms. Coplen had to build a larger home that it would disturb the nature and habitat of the property.

Dauneda Shultz, 5350 E Mt Zion Rd, said Ms. Coplen is a former neighbor and she would like for her to be again. Mrs. Shultz stated that she was in favor of Ms. Coplen's petition.

Michael Nesbit, 5211 E Mt Zion Rd, said he and Gilbert Foster are the only surrounding neighbors who would be able to see Ms. Coplen's home and he does not have a problem with it. Mr. Nesbit noted he and his wife currently live in a 700 square foot home and has for twenty years. He explained his house is cozy, it is not a dump, and it is not a chicken house and he expects Ms. Coplen's house to be the same.

Mark Martens asked for any further comments in favor of the petition.

Being none, Mark asked for those opposing the petition to please rise and state their name, address, and reason for attending the public hearing.

Sam Mast, 5503 E 250 S, said he does not know if he is totally opposed to the petition but he does have some concerns. Mr. Mast owns the surrounding ground around Ms. Coplen's wooded lot. He is not opposed to her building a home on the property but he wants to know how close the home will be setting to his property line. Mr. Mast explained that he hunts deer on his property and is afraid that if the home is too close to his property line it may get hit with a slug from a gun.

Lauren Mast, 5503 E 250 S, said he also is concerned with how far the home would be from his father's property line.

Mark Martens asked for any further comments opposing the petition. Being none, he asked Casi Cramer to address the setback issue brought forward by Mr. Mast.

Casi Cramer explained Ms. Coplen's property is located within the AG District, which states that any new primary structure must sit at least 15 feet off of the side and rear property lines and 40 feet off of the Right-of-way of the road. Mr. Mast said if the home was only 15 feet off of his property line then he would not be in favor of the petition. Ms. Coplen stated that her home would be at least 50 feet off of Mr. Mast's property line. Mr. Mast said if the home was 50 feet off of the property line then he did not have a problem with the petition.

Mark Martens then entertained a motion to open the public hearing. Dan Walsh moved to open the public hearing. Linda Herd seconded the motion. Motion carried as follows: Dan Walsh, Linda Herd, Steve Furnivall and Mark Martens being in favor and no one opposing.

FULTON COUNTY BOARD OF ZONING APPEALS
OCTOBER 13, 2004

Mark then asked for Board discussion.

Dan Walsh said he would like to see what it is going to cost Ms. Coplen to build a 640 square foot home to see what kind of impact it would have before he made a decision. Mark Martens asked if Dan was requesting bank statements or what information he was looking for to make that decision. Dan felt he was being asked to grant a variance due to Ms. Coplen's financial situation and he cannot make a decision without knowing the difference in cost between a 640 square foot home and a 980 square foot home. Dan said he felt it was more or less a convenience issue.

Steve Furnivall asked if there was a size limitation on how much acreage or land would be utilized for the septic system. Casi Cramer stated a typical septic system for a one bedroom home placed on Kosciusko soils would require approximately 300 sq ft of space for the leach field and a 750 to 800 gallon tank installation. Casi explained the Health Department bases the amount of space needed for the septic system by how many bedrooms are proposed to be in the home not by the actual square footage of the home.

Steve Furnivall said he does not feel that Ms. Coplen's financial situation should not be an issue for a decision. Steve stated he had been taught when serving on this Board not to take someone's financial situation into play when making a decision. BZA Attorney, Greg Heller, said he agrees with Steve Furnivall regarding the financial aspect. Greg did not feel the financial situation was a relevant issue when looking at making a decision for this petition and if the Board started to look at that they would have problems in the future. Greg explained statute gives the Board three criteria to base their decision on and basically it comes down to how the Board determines a practical difficulty.

Mark Martens did not feel that what Ms. Coplen wants to do would be out of character for the area in which she is located. There was much Board discussion regarding the lay of the land and the surrounding properties.

Mark Martens felt that Ms. Coplen was asking for a seasonal cabin other than the fact that she would be living there full time not part time. Mark explained there are several seasonal cabins around the County. Mark said just because it is a cabin does not mean that it will be anymore structural unsafe or sound than a 980 square foot home. Mark felt it was the time limit of how long a seasonal cabin could be occupied by someone that Ms. Coplen needed a variance from not the structure. BZA Attorney, Greg Heller, said Mark Martens brought up a good point but from a legal standpoint it was the size of the structure that the Board needed to look at not the time frame in which it would be lived in. There was much Board discussion regarding this situation. Mark Martens asked for any further Board discussion. Being none, he entertained a motion regarding the petition.

Steve Furnivall moved to approve, Docket #BZA 92-0904 Gretchen Coplen, requesting a Development Standards Variance of three hundred and forty square feet (340 sq ft) off of the required minimum main floor area, the property is located in an Agricultural District (AG) on Mt Zion Rd in Rochester, IN. Linda Herd seconded the motion.

The Board members then proceeded to fill out their Findings of Fact Forms (attachments labeled E). The Administrative Secretary, Erica Tyler, conducted a roll call vote:

Linda Herd	Yea
Dan Walsh	Yea
Steve Furnivall	Yea
Mark Martens	Yea

The motion to approve, Docket #BZA 92-0904 Gretchen Coplen, requesting a Development Standards Variance of three hundred and forty square feet (340 sq ft) off of the required minimum main floor area, the property is located in an Agricultural District (AG) on Mt Zion Rd in Rochester, IN, passed with four votes being in favor and no one opposing.

FULTON COUNTY BOARD OF ZONING APPEALS
OCTOBER 13, 2004

IN RE: PLAN DIRECTOR REPORT

Casi Cramer presented the Board with an update of permits, applications, violations, and complaints that have occurred in the Plan Commission Office. (See attachment F)

It is duly noted that there were no Public Comments or Board Comments given at this time.

Being no further business to come in front of the Board of Zoning Appeals, Mark Martens, entertained a motion to adjourn the October 13th, 2004, Board of Zoning Appeals meeting. Steve Furnivall moved to adjourn the October 13th, 2004, Board of Zoning Appeals meeting at 8:20 P.M. Dan Walsh seconded the motion. Motion carried as follows: Steve Furnivall, Dan Walsh, Linda Herd, and Mark Martens being in favor and no one opposing.

FULTON COUNTY BOARD OF ZONING APPEALS

ATTEST: _____
Erica A. Tyler, Administrative Secretary

**FULTON COUNTY
BOARD OF ZONING APPEALS**

WEDNESDAY, NOVEMBER 10, 2004

**7:00 P.M.
COMMISSIONERS/COUNCIL ROOM**

CALL TO ORDER

**BOARD OF ZONING APPEALS MINUTES FOR:
October 13, 2004**

OLD BUSINESS

NEW BUSINESS:

87-0704 Nyona South Mud Lake Conservancy Update
93-0904 Martin VanMeter
94-0904 Floyd & Linda Fraser
95-1004 David & Rosemary Bellamy

PLAN DIRECTOR REPORT

PUBLIC COMMENTS

BOARD COMMENTS

ADJOURNMENT

FULTON COUNTY BOARD OF ZONING APPEALS
NOVEMBER 10, 2004

The Fulton County Board of Zoning Appeals met on Wednesday the 17th day of November 2004, at 7:00 P.M. in the Commissioners/Council Room located in the Fulton County Office Building. Chairperson, Mark Martens, called the meeting to order at 7:00 p.m. The following members were present: Chairperson, Mark Martens; Vice Chairperson, Dan Walsh; Debbie Barts and Steve Furnivall. Also in attendance were: Plan Director, Casi Cramer; Administrative Secretary, Erica Tyler; and BZA Attorney, Greg Heller. It is duly noted that Executive Secretary, Linda Herd, was absent.

IN RE: MINUTES

OCTOBER 13, 2004

Chairperson, Mark Martens, asked for any additions, deletions, or corrections to be made to the October 13, 2004, Board of Zoning Appeals minutes. Being none, he entertained a motion regarding the minutes. Steve Furnivall moved to approve the October 13, 2004, Board of Zoning Appeals minutes. Debbie Barts seconded the motion. Motion carried as follows: Steve Furnivall, Debbie Barts, Dan Walsh, and Mark Martens being in favor and no one opposing.

It is duly noted there was no Old Business to report at this time.

IN RE: NEW BUSINESS

NYONA SOUTH MUD LAKE CONSERVANCY
PETITION UPDATE

Nyona South Mud Lake Conservancy, Docket #BZA 87-0704, Update on Special Exceptions. Plan Director, Casi Cramer, explained the Conservancy received its first Special Exceptions on January 9, 2002, for a government building and a mechanical sewage treatment facility. The construction plans were delayed for the first Special Exceptions causing it to be nullified due to time limitations. Work must begin within one year of receiving a Special Exception. The Conservancy received its second Special Exceptions on September 8, 2004, for the government building and mechanical sewage treatment facility. Casi noted the second Special Exceptions were represented as being identical to the proposed plans of the first Special Exceptions, with the only difference in the petitions being the placement of the facilities. Casi stated the Conservancy purchased additional land directly east of the originally planned location, which makes the buildings set farther back off the road than originally planned. Casi Cramer explained when the Special Exceptions were presented at the September 8, 2004, meeting the Board Members were told that the sewage treatment facility would be creating dry sludge. Since then it has come to the Plan Commission Office's attention that the sewage treatment facility would actually be creating liquid sludge instead of dry like originally planned. Casi said she still did not foresee any problems with the sewage treatment facility but wanted the Board to be aware of the change in the process.

Jim Lauer, President of Schnelker Engineering Inc., said the Conservancy was given several options to choose from as to what kind of sewage treatment facility they wanted to create. Mr. Lauer stated the Conservancy has chosen to treat the water in aeration basins, which is constantly being aerated. Then it will flow into a clarifier unit to get rid of bacteria and finally released into the stream. As the liquid flows through the system the solids are removed and treated. The treatment process for the solids revolves around the aerobic digester, which has a capacity of 33,700 gallons and will have fans or blowers on it 24 hours a day. After the solids have been treated the Conservancy will have Merrell Bros., from Kokomo, Indiana, come to the facility to remove the solids, in liquid form, by tanker and

FULTON COUNTY BOARD OF ZONING APPEALS
NOVEMBER 10, 2004

they will haul them back to their facility in Kokomo for proper disposal. Mr. Lauer said this process has been approved by the Indiana Department of Environmental Management and is what the Conservancy will be utilizing.

Steve Furnivall asked if the digester was a covered system or open-air system. Mr. Lauer stated it is an open-air system so all tanks will be open. Dan Walsh noted by doing the liquid sludge there was one less step involved in the process. Mr. Lauer said the sludge would not be dried at the facility, which removes one step from the original plans.

Mr. Lauer said Merrell Bros. should only have to come to the site once or twice a year to remove the liquid sludge. He stated they would probably take out 23,000 to 25,000 gallons of liquid sludge at a time; some of the sludge must be left in the tanks as seed to keep the process going.

Steve Furnivall questioned why the dry sludge process was presented to the Board instead of the liquid sludge process. Mr. Lauer said at the time the Conservancy was given two options either liquid sludge or dry sludge and the engineer that was present at those meetings maybe felt that the Conservancy was leaning towards the dry sludge process so that is what he presented to the Board. Mr. Lauer explained the designs for the project had not been started at that time but they were trying to get the process started for the design. When discussing the various costs between dry and liquid sludge removal the Conservancy opted to go with liquid sludge removal.

Steve Furnivall asked if it was normal for Mr. Lauer's company to obtain a zoning permit without first having a design created. Mr. Lauer stated no one is ever concerned about the individual inner processes of the facility they only care about what the facility will be used for. The inner processes are normally only the concern of the Conservancy or District.

Debbie Barts questioned if the Board had to conduct a vote on the situation. Casi Cramer explained there was no vote necessary she just wanted to the Board to be aware of the difference in the process of the sewage treatment facility.

Mr. Lauer said the facility would be a pressure collected system and he was sorry for the confusion on the process of the sewage treatment facility. Mr. Lauer stated the Conservancy and his company, Schnelker Engineering Inc., are hoping to break ground in the spring of 2005.

IN RE: NEW BUSINESS

MARTIN VANMETER
DEVELOPMENT STANDARDS VARIANCE

Martin VanMeter, Docket #BZA 93-0904, Development Standards Variance. Mr. VanMeter is requesting a Development Standards Variance of ten feet (10') off of the required side yard setback. This request is for the purpose of building a 24' x 36' addition onto the existing home located at 7641 South 1000 West, Kewanna, IN 46939 (see attachment A). Mr. VanMeter's property consists of approximately two (2) acres and is located within the Agricultural District (AG).

Plan Director, Casi Cramer, explained within the AG District there is a minimum side yard setback of fifteen feet (15') for any primary structures. Casi noted the property is surrounded on three sides by agricultural fields. Mr. VanMeter owns the twenty (20) acre field directly south of the project site and the home directly across County Road 1000 West. Casi stated the addition is proposed for the north side of the home. The existing home sets at an angle so the northwest corner of the proposed addition will set approximately twenty seven and a half feet (27.5') off of the side yard property line and the northeast corner will set approximately seven and a half feet (7.5') off of the side yard property line. Casi recommended approval of the ten-foot (10') variance off the required side yard setback.

Chairperson, Mark Martens, asked if there was any information Mr. VanMeter would like to add to the Plan Director's presentation.

Martin VanMeter said he had nothing to add at this time.

FULTON COUNTY BOARD OF ZONING APPEALS
NOVEMBER 10, 2004

Chairperson, Mark Martens, asked for any Board member questions to the staff or the petitioner. Being none, he entertained a motion to open the public hearing.

Debbie Barts moved to open the public hearing. Dan Walsh seconded the motion. Motion carried as follows: Debbie Barts, Dan Walsh, Steve Furnivall, and Mark Martens being in favor and no one opposing.

Mark Martens then asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing. Being none, he asked those opposing the petition to do the same. Being none, Mark entertained a motion to close the public hearing.

Dan Walsh moved to close the public hearing. Debbie Barts seconded the motion. Motion carried as follows: Dan Walsh, Debbie Barts, Steve Furnivall, and Mark Martens being in favor and no one opposing.

Mark Martens then asked for any Board discussion. Being none, he entertained a motion regarding the petition.

Dan Walsh moved to approve, Docket #BZA 93-0904 Martin VanMeter, requesting a Development Standards Variance of ten feet (10') off of the required side yard setback, for property located in the Agricultural District (AG) at, 7641 South 1000 West, Kewanna, IN. Debbie Barts seconded the motion.

The Board members then proceeded to fill out their Findings of Fact Forms (attachments labeled B). The Administrative Secretary, Erica Tyler, conducted a roll call vote:

Steve Furnivall	Yea
Debbie Barts	Yea
Dan Walsh	Yea
Mark Martens	Yea

The motion to approve, Docket #BZA 93-0904 Martin VanMeter, requesting a Development Standards Variance of ten feet (10') off of the required side yard setback, for property located in the Agricultural District (AG) at, 7641 South 1000 West, Kewanna, IN, passed with four votes being in favor and no one opposing.

IN RE: NEW BUSINESS

FLOYD & LINDA FRASER
DEVELOPMENT STANDARDS VARIANCE

Floyd & Linda Fraser, Docket #BZA 94-0904, Development Standards Variance. Mr. and Mrs. Fraser are requesting a Development Standards Variance of seven feet (7') off of the required front yard setback. This request is for the purpose of adding on to the existing home located at 3399 East 300 South, Rochester, IN 46975 (see attachment C). The Fraser's property consists of approximately one and a half acres (1.5) and is located within the Agricultural District (AG).

Plan Director, Casi Cramer, explained within the AG District there is a required front yard setback of forty feet (40') off of the Right of Way of the road. The Right of Way on County Road 300 South is thirty-three feet (33'); therefore any newly created structure must sit at least fifty-six and a half feet (56.5') from the centerline of that road. Casi noted the existing home only sits forty-nine and a half feet (49.5') off of the centerline of County Road 300 South, which means it is only thirty-three feet (33') off of the Right of Way. Casi said the Fraser's are trying to remodel their existing home so that it will be handicap accessible for Mr. Fraser. Casi stated walls will be removed

FULTON COUNTY BOARD OF ZONING APPEALS
NOVEMBER 10, 2004

and the addition will be built flush with the front and the west side of the existing home. The Fraser's have already received approval from Wes Burden, Health Sanitarian, regarding the use of the existing septic. Casi Cramer explained the Fraser's have obtained funding for the addition through the Veterans Affairs Department (VA) and they have approved all of the designs for the addition. Casi said the possibility of offsetting the addition from the existing home approximately seven feet (7') was discussed, however, since the purpose of this addition is to make the home handicap accessible for Mr. Fraser any offsetting would create the need to alter the flow, and design of the proposed addition. Casi noted any changes to the design plans would also have to be sent back to the VA for approval, causing significant delay in the construction of the addition and the accessibility of the home for Mr. Fraser. Casi Cramer recommended approval of the seven-foot (7') variance off of the required front yard setback.

Chairperson, Mark Martens, asked if there was any information Mr. and Mrs. Fraser would like to add to the Plan Director's presentation.

Floyd Fraser stated he was injured in Vietnam and because of that injury is now wheelchair bound. Mr. Fraser said the Federal Government would be paying for the addition and remodeling to make his existing home handicap accessible.

Chairperson, Mark Martens, asked for any Board member questions to the staff or the petitioner. Being none, he entertained a motion to open the public hearing.

Dan Walsh moved to open the public hearing. Debbie Barts seconded the motion. Motion carried as follows: Dan Walsh, Debbie Barts, Steve Furnivall, and Mark Martens being in favor and no one opposing.

Mark Martens then asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing. Being none, he asked those opposing the petition to do the same. Being none, Mark entertained a motion to close the public hearing.

Dan Walsh moved to close the public hearing. Debbie Barts seconded the motion. Motion carried as follows: Dan Walsh, Debbie Barts, Steve Furnivall, and Mark Martens being in favor and no one opposing.

Mark Martens then asked for any Board discussion. Being none, he entertained a motion regarding the petition.

Debbie Barts moved to approve, Docket #BZA 94-0904 Floyd & Linda Fraser, requesting a Development Standards Variance of seven feet (7') off of the required front yard setback, for property located in the Agricultural District (AG) at, 3399 East 300 South, Rochester, IN. Steve Furnivall seconded the motion.

The Board members then proceeded to fill out their Findings of Fact Forms (attachments labeled D). The Administrative Secretary, Erica Tyler, conducted a roll call vote:

Dan Walsh	Yea
Debbie Barts	Yea
Steve Furnivall	Yea
Mark Martens	Yea

The motion to approve, Docket #BZA 94-0904 Floyd & Linda Fraser, requesting a Development Standards Variance of seven feet (7') off of the required front yard setback, for property located in the Agricultural District (AG) at, 3399 East 300 South, Rochester, IN, passed with four votes being in favor and no one opposing.

FULTON COUNTY BOARD OF ZONING APPEALS
NOVEMBER 10, 2004

IN RE: NEW BUSINESS

DAVID & ROSEMARY BELLAMY
DEVELOPMENT STANDARDS VARIANCE

David & Rosemary Bellamy, Docket #BZA 95-1004, Development Standards Variance. Mr. and Mrs. Bellamy are requesting a development standards variance of six feet (6') off of the front yard setback. This request is for the purpose of a porch, which has already been built at 673 North 700 East, Rochester, IN 46975 (see attachment E). The Bellamy's built a seven by twenty-six foot (7' x 26') front porch on their existing home prior to obtaining a Location Improvement Permit. The property consists of approximately nine tenths of an acre (.90) and is located within the Agricultural District (AG).

Plan Director, Casi Cramer, explained Mrs. Bellamy called the Plan Commission Office to find out the procedure for getting a permit and it was discovered when she came in to obtain the permit that the porch did not meet the required front yard setback. The Bellamy's were required to pay the Early Bird Fine of three times the fee for the BZA Application (\$50.00 x 3=\$150.00) and will be required to pay three times the fee for the Location Improvement Permit (\$20.00 x 3=\$60.00) if the variance is granted. Casi explained within the AG District there is a required front yard setback of forty feet (40') off of the Right of Way of the road. The Right of Way on County Road 700 East is thirty-four feet (34'); therefore any newly created structure must sit at least fifty-seven feet (57') from the centerline of that road. The already existing porch only sits fifty-one feet (51') from the centerline of County Road 700 East. Casi Cramer recommended approval of the six-foot (6') variance off of the front yard setback.

Chairperson, Mark Martens, asked if there was any information Mrs. Bellamy would like to add to the Plan Director's presentation (Mr. Bellamy was not present).

Rosemary Bellamy said she had nothing further to add at this time.

Chairperson, Mark Martens, asked for any Board member questions to the staff or the petitioner.

Steve Furnivall said he did not see how the porch would be harmful in anyway to the public. He also noted that the mobile home just north of the Bellamy's property sits closer to the road than the porch. That particular mobile home was set prior to zoning so it is grandfathered, meaning it does not have to meet setbacks at this time.

Mark Martens entertained a motion to open the public hearing. Steve Furnivall moved to open the public hearing. Debbie Barts seconded the motion. Motion carried as follows: Steve Furnivall, Debbie Barts, Dan Walsh, and Mark Martens being in favor and no one opposing.

Mark Martens then asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing. Being none, he asked those opposing the petition to do the same. Being none, Mark entertained a motion to close the public hearing.

Dan Walsh moved to close the public hearing. Debbie Barts seconded the motion. Motion carried as follows: Dan Walsh, Debbie Barts, Steve Furnivall, and Mark Martens being in favor and no one opposing.

Mark Martens then asked for any Board discussion. Being none, he entertained a motion regarding the petition.

Steve Furnivall moved to approve, Docket #BZA 95-1004 David & Rosemary Bellamy, requesting a Development Standards Variance of six feet (6') off of the required front yard setback, for property located in the Agricultural District (AG) at, 673 North 700 East, Rochester, IN. Debbie Barts seconded the motion.

FULTON COUNTY BOARD OF ZONING APPEALS
NOVEMBER 10, 2004

The Board members then proceeded to fill out their Findings of Fact Forms (attachments labeled F). The Administrative Secretary, Erica Tyler, conducted a roll call vote:

Steve Furnivall	Yea
Debbie Barts	Yea
Dan Walsh	Yea
Mark Martens	Yea

The motion to approve, Docket #BZA 95-1004 David & Rosemary Bellamy, requesting a Development Standards Variance of six feet (6') off of the required front yard setback, for property located in the Agricultural District (AG) at, 673 North 700 East, Rochester, IN, passed with four votes being in favor and no one opposing.

IN RE: PLAN DIRECTOR REPORT

Casi Cramer presented the Board with an update of permits, applications, violations, and complaints that have occurred in the Plan Commission Office. (See attachment G)

Casi introduced Rex Robison whom is a current Plan Commission Member and will be taking Steve Furnivall's place on the BZA next year. Steve's BZA term is up and he does not wish to fulfill the position again in 2005. Steve did state however, if Rex cannot be present at a meeting for some reason he would be willing to sit in as a substitute. Casi noted that Dan Walsh's term was also up in 2005. Dan said he would serve another term on the Board.

It is duly noted that there were no Public Comments or Board Comments given at this time.

Being no further business to come in front of the Board of Zoning Appeals, Mark Martens, entertained a motion to adjourn the November 10th, 2004, Board of Zoning Appeals meeting. Dan Walsh moved to adjourn the November 10th, 2004, Board of Zoning Appeals meeting at 7:50 P.M. Debbie Barts seconded the motion. Motion carried as follows: Dan Walsh, Debbie Barts, Steve Furnivall, and Mark Martens being in favor and no one opposing.

FULTON COUNTY BOARD OF ZONING APPEALS

ATTEST: _____
Erica A. Tyler, Administrative Secretary

FULTON COUNTY BOARD OF ZONING APPEALS
DECEMBER 8, 2004

**FULTON COUNTY
BOARD OF ZONING APPEALS**

WEDNESDAY, DECEMBER 8, 2004

**7:00 P.M.
COMMISSIONERS/COUNCIL ROOM**

CALL TO ORDER

**BOARD OF ZONING APPEALS MINUTES FOR:
November 10, 2004**

OLD BUSINESS

NEW BUSINESS:

97-1004 James Berry

98-1004 Al Kern

PLAN DIRECTOR REPORT

PUBLIC COMMENTS

BOARD COMMENTS

ADJOURNMENT

FULTON COUNTY BOARD OF ZONING APPEALS
DECEMBER 8, 2004

The Fulton County Board of Zoning Appeals met on Wednesday the 8th day of December 2004, at 7:00 P.M. in the Commissioners/Council Room located in the Fulton County Office Building. Vice Chairperson, Dan Walsh, called the meeting to order at 7:00 p.m. The following members were present: Vice Chairperson, Dan Walsh; Executive Secretary, Linda Herd; Debbie Barts; and Steve Furnivall. Also in attendance were: Plan Director, Casi Cramer; and Administrative Secretary, Erica Tyler. It is duly noted that Chairperson, Mark Martens, and BZA Attorney, Greg Heller were both absent.

IN RE: MINUTES

NOVEMBER 10, 2004

Vice Chairperson, Dan Walsh, asked for any additions, deletions, or corrections to be made to the November 10, 2004, Board of Zoning Appeals minutes. Steve Furnivall noted that the header at the top of the minutes states the meeting was on November 17, 2004, and it should say November 10, 2004. Dan Walsh asked for any further additions, deletions, or corrections to the minutes. Being none, he entertained a motion. Steve Furnivall moved to approve the November 10, 2004, Board of Zoning Appeals minutes with noted changes. Debbie Barts seconded the motion. Motion carried as follows: Steve Furnivall, Debbie Barts, Linda Herd, and Dan Walsh being in favor and no one opposing.

It is duly noted that there was no Old Business to report at this time.

IN RE: NEW BUSINESS

JAMES BERRY
2 DEVELOPMENT STANDARDS VARIANCES

James Berry, Docket #BZA 97-1004, 2 Development Standards Variances. Mr. Berry is requesting two development standards variances off of the required minimum lot width for the purpose of splitting his property into two tracts of land. Mr. Berry's property is located at 9702 West 950 South, Kewanna, IN, and is in the Agricultural District (AG). The property in question currently consists of 2.41 acres (see attachment A).

Plan Director, Casi Cramer, explained Mr. Berry would like to split his current 2.41 acres into two tracts for the purpose of placing a new home. Casi stated that there have been two homes located on Mr. Berry's property for the last seven years and he would like to replace the older single wide mobile home with a newer single wide. The issue is that the Fulton County Zoning Ordinance only allows one dwelling per tract of land, therefore Mr. Berry would either need a Special Exception for a temporary second dwelling to be placed on the property or he would have to ask for two Development Standards Variances to split the property in half giving each home it's own tract of land. Casi said Mr. Berry has decided to ask for the development standards variances on the minimum lot width. Casi Cramer explained the AG District has a minimum lot width of two hundred feet (200') for any newly created tract of land. Mr. Berry's property is only two hundred and ninety two feet (292') wide. In order for Mr. Berry to split his property and meet the rest of the Zoning requirements he will need a forty one foot (41') variance off of Tract I and a sixty seven foot (67') variance off of Tract II (see attachment B). Casi Cramer stated Mr. Berry has received septic release from the Fulton County Health Department to utilize the existing septic system. Casi noted Mr. Berry has already moved the single wide mobile home onto the property but has not permanently set the home. Mr. Berry will have to pay \$60 for his Location Improvement Permit due to the fact he set it prematurely. Plan Director, Casi Cramer, recommended approval due to the fact there has been two homes on this property for the past several years and Mr. Berry wants to replace the older home with a newer home to improve his property.

FULTON COUNTY BOARD OF ZONING APPEALS
DECEMBER 8, 2004

Vice Chairperson, Dan Walsh, asked if there was any information Mr. Berry would like to add to the Plan Director's presentation:

James Berry said he had nothing to add at this time.

Vice Chairperson, Dan Walsh, asked for any Board member questions to the staff or the petitioner. Being none, he entertained a motion to open the public hearing.

Steve Furnivall moved to open the public hearing. Linda Herd seconded the motion. Motion carried as follows: Steve Furnivall, Linda Herd, Debbie Barts, and Dan Walsh being in favor and no one opposing.

Dan Walsh then asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing. Being none, he asked those opposing the petition to do the same. Being none, Dan entertained a motion to close the public hearing.

Debbie Barts moved to close the public hearing. Linda Herd seconded the motion. Motion carried as follows: Debbie Barts, Linda Herd, Steve Furnivall, and Dan Walsh being in favor and no one opposing.

Dan Walsh then asked for any Board discussion.

Steve Furnivall and Debbie Barts both stated they did not see any problems with granting the variances for Mr. Berry to improve his property.

Being no further discussion, Dan Walsh entertained a motion regarding the petition.

Steve Furnivall moved to approve, Docket #BZA 97-1004 James Berry, requesting a Development Standards Variance of forty-one feet (41') off of the required minimum lot width for a newly created lot being Tract I and a Development Standards Variance of sixty-seven feet (67') off of the required minimum lot width for a newly created lot being Tract II, both tracts are located in the Agricultural District (AG) at 9702 W 950 S, Kewanna, IN. Linda Herd seconded the motion.

The Board members then proceeded to fill out their Findings of Fact Forms (attachments labeled C). The Administrative Secretary, Erica Tyler, conducted a roll call vote:

Debbie Barts	Yea
Steve Furnivall	Yea
Linda Herd	Yea
Dan Walsh	Yea

The motion to approve, Docket #BZA 97-1004 James Berry, requesting a Development Standards Variance of forty-one feet (41') off of the required minimum lot width for a newly created lot being Tract I and a Development Standards Variance of sixty-seven feet (67') off of the required minimum lot width for a newly created lot being Tract II, both tracts are located in the Agricultural District (AG) at 9702 W 950 S, Kewanna, IN, passed with four votes being in favor and no one opposing.

IN RE: NEW BUSINESS

AL KERN
SPECIAL EXCEPTION

Al Kern, Docket #BZA 98-1004, Special Exception. Mr. Kern is requesting a special exception to operate a used car lot on Stanley Utter's property. Mr. Utter has signed an owner verification form granting his approval for Mr.

FULTON COUNTY BOARD OF ZONING APPEALS
DECEMBER 8, 2004

Kern to operate the used car lot on his property. Mr. Utter's property is located at 3191 East 400 North, Rochester, IN, and is located within the Agricultural District (AG). The proposed used car lot will set on the same three-acre tract as Mr. Utter's business which is Rochester Muffler (see attachment D).

Plan Director, Casi Cramer, explained Mr. Utter currently has a muffler shop located on the property in question and has given Mr. Kern permission to operate a used car lot on the property as well. Mr. Utter has stated there was previously a car lot located on this property and Mr. Ken Garrison operated the auto sales business for approximately nine years before Zoning was implemented. Mr. Garrison has not operated the car lot for approximately four years. The property in question also has two single wide mobile homes located on it, which Mr. Utter rents out. Casi noted the closest homes not owned by Mr. Utter are approximately a tenth of a mile to the west of the site and a third of a mile to the east of the site. Mr. Utter not only owns the mobiles located on the three-acre tract but also owns the mobile homes directly across 400 north. Casi stated there is an existing building located on the property, which will be utilized as the office for the used car lot. Mr. Utter has stated that the car lot will be utilizing the existing lighting on the property. Casi explained Mr. Kern placed a sign on the existing building for his business prior to obtaining the special exception so he will have to obtain a sign permit and pay three times the permit fee for doing so. The AG District does not list auto sales as a special exception but farm equipment sales/service, automobile body shop (enclosed), automobile repair/major, and automobile repair/minor are listed. Mr. Utter and Mr. Kern did not want to rezone the property therefore Casi Cramer wrote the proposed use in to the AG District's special exception column and has left the final decision to the Board. Plan Director, Casi Cramer, said she did not foresee the traffic pattern increasing due to the fact there is an existing muffler shop located on the property. Casi recommended approval of the special exception but suggested that there be conditions placed on the petition regarding the designated area in which the vehicles can be located on the property and the operable condition of the vehicles.

Vice Chairperson, Dan Walsh, asked if there was any information Mr. Kern would like to add to the Plan Director's presentation:

Al Kern; 9377 West 300 North, Etna Green, IN; said the address for the used car lot would be 3197 East 400 North, Rochester, IN, not 3191 East 400 North, Rochester, IN, like presented. Mr. Kern said 3191 East 400 North belongs to the rented mobile home directly behind the office building. Mr. Kern explained he put up his sign prematurely because the State required him to have a picture of the building he would be utilizing along with a sign advertising the business in order to obtain his State license to deal the used vehicles. Mr. Kern also stated that his parking area for the used vehicles would not be as big as shown on Attachment D. Mr. Kern wants to keep a break between his car lot and where Mr. Utter's customers park their vehicles for the muffler shop.

Vice Chairperson, Dan Walsh, asked for any Board member questions to the staff or the petitioner.

Linda Herd questioned how much footage was located between the office building located on the property and the road. Mr. Kern stated the building is at least fifty feet (50') from the road. Steve Furnivall asked if Casi Cramer could get a closer guesstimate with the ThinkMap program. Casi said she could and stated the ThinkMap program shows that the existing office building is approximately seventy-three feet (73') from the Right of Way of 400 north.

Steve Furnivall stated on question #3 of Mr. Kern's Findings of Fact form he stated the lot would be kept neat and clean for all property owners in the area, but when visiting the site Steve did not find it to be neat and clean. Mr. Utter said he is in the process of cleaning the property. Mr. Utter explained he has various materials, as well as, cars left on the property by previous renters and has had problems with unknown people throwing their trash and junk on his property without permission. Mr. Kern said he and Mr. Utter are working on cleaning the property and if the Board would like he could bring pictures in to show them their process of the clean up within a couple of months.

FULTON COUNTY BOARD OF ZONING APPEALS
DECEMBER 8, 2004

Debbie Barts questioned where the vehicles would be parked on the property. Mr. Utter said there is an existing stone driveway that leads to the existing office building and stretches over to the Muffler Shop. The stone area in front of the office building is where the car lot will be located.

Dan Walsh asked if Mr. Kern would be working on the used vehicles at his site or if he would be taking them somewhere else. Mr. Kern stated he would have most of the work done at Mr. Utter's muffler shop. Mr. Kern said the only thing he might do himself from time to time is washing and detailing the used vehicles before he puts them on the lot to sell.

Dan Walsh questioned how many vehicles Mr. Kern wanted to have on the used car lot at one time. Mr. Kern said he was thinking of anywhere from ten to fifteen vehicles at one time.

There was much Board discussion regarding the size of the actual car lot and how far from the road the vehicles should sit. The Board consensus was to allow a selling area of approximately fifty-five feet (55') out from the office building and approximately seventy to seventy-five feet (70' – 75') wide, or across, the front of the building. Mr. Utter suggested that the Board make the distance between where the vehicles are parked and the Right of Way of the road as small as possible to help prevent people from parking in the Right of Way when looking at the vehicles in the car lot. Mr. Utter said he wants the customers to actually pull into the car lot to look at the vehicles so they do not interfere with the traffic on County Road 400 north. Casi Cramer suggested the placement of a fence to help prevent people from parking along the Right of Way, as well as, having a setback. The Board consensus was to have a setback of ten feet (10') off of the Right of Way for the area in which the used vehicles can be parked.

Dan Walsh asked for any further questions from the Board to the staff or petitioner. Being none, he entertained a motion to open the public hearing.

Debbie Barts moved to open the public hearing. Linda Herd seconded the motion. Motion carried as follows: Debbie Barts, Linda Herd, Steve Furnivall, and Dan Walsh being in favor and no one opposing.

Dan Walsh then asked for those in favor of the petition to please rise and state their name, address, and reason for attending the public hearing.

Stanley Utter; 2502 Captains Court, Rochester, IN; said he was in favor of the petition and he is the property owner. Mr. Utter stated that he had talked to all of the interested parties about the used car lot and none of them voiced any opposition to the project.

Dan asked for any further comments in favor of the petition. Being none, he asked those opposing the petition to do the same. Being none, Dan entertained a motion to close the public hearing.

Linda Herd moved to close the public hearing. Debbie Barts seconded the motion. Motion carried as follows: Linda Herd, Debbie Barts, Steve Furnivall, and Dan Walsh being in favor and no one opposing.

Dan Walsh then asked for any Board discussion.

There was much Board discussion regarding the size of the selling area/car lot and the operable condition of the vehicles located on the lot. Once the Board was in agreement, Dan Walsh entertained a motion regarding the petition.

Steve Furnivall moved to approve, Docket #BZA 98-1004 Al Kern, requesting a Special Exception to operate a used car lot on Stanley Utter's property located at 3197 E 400 N, Rochester, IN, in the Agricultural District (AG) with the following conditions: 1) All vehicles on the lot must be in inoperable condition; 2) the vehicles must be in a contained area measuring sixty feet by seventy five feet (60' x 75') commencing at the North East corner of the office building and continuing West from that point; and 3) there will be a required setback of ten feet (10') from the Right of Way of County Road 400 North which must be kept free and clear. Linda Herd seconded the motion.

FULTON COUNTY BOARD OF ZONING APPEALS
DECEMBER 8, 2004

The Board members then proceeded to fill out their Findings of Fact Forms (attachments labeled E). The Administrative Secretary, Erica Tyler, conducted a roll call vote:

Linda Herd	Yea
Steve Furnivall	Yea
Debbie Barts	Yea
Dan Walsh	Yea

The motion to approve, Docket #BZA 98-1004 Al Kern, requesting a Special Exception to operate a used car lot on Stanley Utter's property located at 3197 E 400 N, Rochester, IN, in the Agricultural District (AG) with the following conditions: 1) All vehicles on the lot must be in inoperable condition; 2) the vehicles must be in a contained area measuring sixty feet by seventy five feet (60' x 75') commencing at the North East corner of the office building and continuing West from that point; and 3) there will be a required setback of ten feet (10') from the Right of Way of County Road 400 North which must be kept free and clear passed with four votes being in favor and no one opposing.

IN RE: PLAN DIRECTOR REPORT

Casi Cramer updated the Board on permits, applications, violations, and complaints that have occurred in the Plan Commission Office (see attachment F).

Casi stated the City of Rochester officially passed the Enacting Ordinance for the Area Plan Commission on Tuesday, December 7, 2004. The Town of Kewanna will be looking at the Enacting Ordinance for the Area Plan Commission at their January meeting. Casi said she would be going to the Town of Fulton to discuss the Area Plan Commission with them to see if they are interested in joining the Area Plan Commission as well.

It is duly noted that there were no Public Comments or Board Comments given at this time.

Being no further business to come in front of the Board of Zoning Appeals, Dan Walsh, entertained a motion to adjourn the December 8, 2004, Fulton County Board of Zoning Appeals meeting. Debbie Barts moved to adjourn the December 8, 2004, Fulton County Board of Zoning Appeals meeting at 8:00 P.M. Linda Herd seconded the motion. Motion carried as follows: Debbie Barts, Linda Herd, Steve Furnivall, and Dan Walsh being in favor and no one opposing.

FULTON COUNTY BOARD OF ZONING APPEALS

ATTEST: _____
Erica A. Tyler, Administrative Secretary